

SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS

B.1 PILOT PROGRAM

This acquisition represents a “pilot program” in accordance with Division B, Section 801 of P.L. 108-447, the Consolidated Appropriations Act for 2005. The purpose of this pilot program is to demonstrate whether or not searches by commercial entities of the available prior art relating to the subject matter of inventions claimed in Patent Cooperation Treaty (PCT) patent applications are accurate and meet or exceed the standards of searches conducted by and used by the U.S. Patent and Trademark Office during the patent examination process.

B.2 CONTRACT TYPE

The Government anticipates award of multiple Indefinite Delivery Indefinite Quantity (IDIQ) contracts. Award by line item may be made, and offerors may bid some or all contract line items (but must also bid the associated sub-line items—See paragraph C.4.2.3.). The Government's minimum, maximum and estimated quantities are provided. Due to the nature of Sub-line items 0001A, 0002A, 0003A, 0004A, 0005A, 0006A, 0007A and 0008A, the Government cannot provide minimum and maximum quantities, but has provided its best estimate.

B.3 BASE PERIOD (Date of award to 6 months thereafter)

CLIN	DESCRIPTION	Min.	Max	Est.	Unit	Unit Price	Extended Price
0001	Business Methods: Electronic Commerce; Health Care Management; Insurance, Reservation, Check-in & Ticketing Systems; Operations Research; Advertising, Coupons, and Incentives; Point of Sale Systems; Electronic Shopping & Catalog Systems; Inventory Management; Accounting, Checkbook Balancing; Tax Processing; Investment Planning/Stock-Bond Trading; Auction Systems; Credit and Loan Processing; Electronic Funds Transfer; Business-Cryptography	25	492	246	<u>EA</u>	\$	\$
0001A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	13	<u>EA</u>	\$	\$
0002	Life Sciences: Surgery and Medical Devices: Medical instruments, Diagnostic Equipment, Treatment Devices, Surgery, Surgical Supplies, Dentistry, Animal Husbandry, Plant Husbandry, Prosthetics	25	1291	646	<u>EA</u>	\$	\$
0002A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	35	<u>EA</u>	\$	\$

0003	Mechanical: Transportation, Construction and Agriculture; Mechanical Engineering, Manufacturing and Products, Teaching, Amusement Device, Apparatus for Conducting Process, Ordnance, Trapping, Textile Process and Apparatus, Cleaning, Molding, Founding, Shaping	25	2615	1308	<u>EA</u>	\$	\$
0003A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	72	<u>EA</u>	\$	\$
0004	Computer and Information Sciences: Computer Architecture, Software, Data Processing, Network Communications, Cryptography, Information Storage, Information Management and Security, Video Editing	25	1644	822	<u>EA</u>	\$	\$
0004A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	45	<u>EA</u>	\$	\$
0005	Electrical Communications: Television, Radio, Telemetry, Telephone and Telegraph, Optical Communication, Fax, Electrical Interface Devices, GPS	25	1599	800	<u>EA</u>	\$	\$
0005A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	44	<u>EA</u>	\$	\$
0006	Physical Sciences: Measuring and Testing, Radiation, Optics, Semiconductors, Nanodevices, Music, Nuclear Engineering, High Temperature Superconductors Electrical: Control Systems, Electrical Circuits and Components, Lighting, Power Generation, Conversion, and Distribution, Printers and Recorders	25	1529	765	<u>EA</u>	\$	\$
0006A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	42	<u>EA</u>	\$	\$
0007	Biotechnology: Molecular and Microbiology, Living Organisms	25	2240	1120	<u>EA</u>	\$	\$
0007A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	62	<u>EA</u>	\$	\$
0008	Chemical: Organic and Inorganic Chemistry; Chemical and Materials Engineering; Pharmaceutical	25	4637	2319	<u>EA</u>	\$	\$
0008A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	128	<u>EA</u>	\$	\$

B.4 OPTION PERIOD I (Date of option exercise through 6 months thereafter)

CLIN	DESCRIPTION	Min.	Max	Est.	Unit	Unit Price	Extended Price
0001	Business Methods: Electronic Commerce; Health Care Management; Insurance, Reservation, Check-in & Ticketing Systems; Operations Research; Advertising, Coupons, and Incentives; Point of Sale Systems; Electronic Shopping & Catalog Systems; Inventory Management; Accounting, Checkbook Balancing; Tax Processing; Investment Planning/Stock-Bond Trading; Auction Systems; Credit and Loan Processing; Electronic Funds Transfer; Business-Cryptography	25	492	246	<u>EA</u>	\$	\$
0001A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	13	<u>EA</u>	\$	\$
0002	Life Sciences: Surgery and Medical Devices: Medical instruments, Diagnostic Equipment, Treatment Devices, Surgery, Surgical Supplies, Dentistry, Animal Husbandry, Plant Husbandry, Prosthetics	25	1291	646	<u>EA</u>	\$	\$
0002A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	35	<u>EA</u>	\$	\$
0003	Mechanical: Transportation, Construction and Agriculture; Mechanical Engineering, Manufacturing and Products, Teaching, Amusement Device, Apparatus for Conducting Process, Ordnance, Trapping, Textile Process and Apparatus, Cleaning, Molding, Founding, Shaping	25	2615	1308	<u>EA</u>	\$	\$
0003A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	72	<u>EA</u>	\$	\$
0004	Computer and Information Sciences: Computer Architecture, Software, Data Processing, Network Communications, Cryptography, Information Storage, Information Management and Security, Video Editing	25	1644	822	<u>EA</u>	\$	\$
0004A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	45	<u>EA</u>	\$	\$
0005	Electrical Communications: Television, Radio, Telemetry, Telephone and Telegraph, Optical Communication, Fax, Electrical Interface Devices, GPS	25	1599	800	<u>EA</u>	\$	\$
0005A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	44	<u>EA</u>	\$	\$

0006	Physical Sciences: Measuring and Testing, Radiation, Optics, Semiconductors, Nanodevices, Music, Nuclear Engineering, High Temperature Superconductors Electrical: Control Systems, Electrical Circuits and Components, Lighting, Power Generation, Conversion, and Distribution, Printers and Recorders	25	1529	765	<u>EA</u>	\$	\$
0006A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	42	<u>EA</u>	\$	\$
0007	Biotechnology: Molecular and Microbiology, Living Organisms	25	2240	1120	<u>EA</u>	\$	\$
0007A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	62	<u>EA</u>	\$	\$
0008	Chemical: Organic and Inorganic Chemistry; Chemical and Materials Engineering; Pharmaceutical	25	4637	2319	<u>EA</u>	\$	\$
0008A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	128	<u>EA</u>	\$	\$

B.5 OPTION PERIOD 2 (Date of option exercise through 6 months thereafter)

CLIN	DESCRIPTION	Min.	Max	Est.	Unit	Unit Price	Extended Price
0001	Business Methods: Electronic Commerce; Health Care Management; Insurance, Reservation, Check-in & Ticketing Systems; Operations Research; Advertising, Coupons, and Incentives; Point of Sale Systems; Electronic Shopping & Catalog Systems; Inventory Management; Accounting, Checkbook Balancing; Tax Processing; Investment Planning/Stock-Bond Trading; Auction Systems; Credit and Loan Processing; Electronic Funds Transfer; Business-Cryptography	25	492	246	<u>EA</u>	\$	\$
0001A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	13	<u>EA</u>	\$	\$
0002	Life Sciences: Surgery and Medical Devices: Medical instruments, Diagnostic Equipment, Treatment Devices, Surgery, Surgical Supplies, Dentistry, Animal Husbandry, Plant Husbandry, Prosthetics	25	1291	646	<u>EA</u>	\$	\$
0002A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	35	<u>EA</u>	\$	\$

0003	Mechanical: Transportation, Construction and Agriculture; Mechanical Engineering, Manufacturing and Products, Teaching, Amusement Device, Apparatus for Conducting Process, Ordnance, Trapping, Textile Process and Apparatus, Cleaning, Molding, Founding, Shaping	25	2615	1308	<u>EA</u>	\$	\$
0003A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	72	<u>EA</u>	\$	\$
0004	Computer and Information Sciences: Computer Architecture, Software, Data Processing, Network Communications, Cryptography, Information Storage, Information Management and Security, Video Editing	25	1644	822	<u>EA</u>	\$	\$
0004A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	45	<u>EA</u>	\$	\$
0005	Electrical Communications: Television, Radio, Telemetry, Telephone and Telegraph, Optical Communication, Fax, Electrical Interface Devices, GPS	25	1599	800	<u>EA</u>	\$	\$
0005A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	44	<u>EA</u>	\$	\$
0006	Physical Sciences: Measuring and Testing, Radiation, Optics, Semiconductors, Nanodevices, Music, Nuclear Engineering, High Temperature Superconductors Electrical: Control Systems, Electrical Circuits and Components, Lighting, Power Generation, Conversion, and Distribution, Printers and Recorders	25	1529	765	<u>EA</u>	\$	\$
0006A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	42	<u>EA</u>	\$	\$
0007	Biotechnology: Molecular and Microbiology, Living Organisms	25	2240	1120	<u>EA</u>	\$	\$
0007A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	62	<u>EA</u>	\$	\$
0008	Chemical: Organic and Inorganic Chemistry; Chemical and Materials Engineering; Pharmaceutical	25	4637	2319	<u>EA</u>	\$	\$
0008A	Additional charge if lack of unity exists and the applicant agrees to pay for search of additional inventions	N/A	N/A	128	<u>EA</u>	\$	\$

B.6 TECHNICAL FIELDS

Each CLIN represents a technical field. The technical fields are defined by their US classification as detailed in Attachments 8 and 9. The technical field is defined by the first claimed invention, which for purposes of this contract will be claim 1. It is possible that an application may have additional inventions drawn to other technical fields within the same applications. Such applications will be assigned to the contractor based solely on the first claimed invention and the entire application will be required to be completed in accordance with the statement of work set forth below. Any classification disputes must be made by the contractor within 3 business days of when

the USPTO makes the assigned application available for pick up. The USPTO will have final say in the classification assignment of any application.

B.7 Performance Based Price Adjustments

Price adjustments are designed to assure timely delivery of all final accepted deliverables. As directed by the Government, the contractor will have a specified period of time to provide the necessary final deliverables. The final deliverables are set forth in Section C. All final deliverables will be accepted in accordance with the evaluation criteria set forth in Section E. Timeliness must be recognized as a vital requirement of this Contract.

B.7.1 Determination of Timeliness

The Contractor will be provided with source documents, hereafter referred to as PCT applications, and the PCT forms that will be necessary for the completions of the final deliverables. The contractor will have a maximum of 30 calendar days, hereafter referred to as “the 30-day period” to prepare and deliver final deliverable, that are acceptable in accordance with Section E, to the USPTO for each PCT application. The 30 day period starts on the day that the USPTO first makes the PCT application available for pick up from the designated location at the USPTO and will include any day (or any portion of a day which will be counted as a whole day) that the USPTO has not received the final deliverable at the designated location at the USPTO, that are acceptable in accordance with Section E, from the Contractor except where otherwise indicated. After the USPTO receives the final deliverable and determines that the final deliverables are in accordance with Section E, the number of days taken by the Contractor to prepare and deliver the final deliverables will be calculated and compared to the allowed 30 calendar day maximum. The USPTO will perform 100% inspection for compliance with the 30 day period for each PCT Application.

B.7.2 Performance Based Price Adjustments Calculation

Using computer-generated reports, the Government will review the contractor's compliance with the 30 day period for each PCT application. The USPTO will evaluate timeliness each month. The Contractor's invoices for the month will be adjusted in accordance with the chart below for each PCT application in which final accepted deliverable have been accepted by the USPTO during the month and which the contractor failed to deliver the final accepted deliverable within the 30 day period.

Prices listed in the Offeror's proposal and subsequently incorporated via contract award will be subject to the following performance based adjustments:

Timeliness	Disincentive
When the final accepted deliverable for the PCT application are received ___ calendar days in excess of the 30 day period.	The following unit price adjustment will be applied to the per application CLIN price for the PCT application.
1-5 days	10% of the per application CLIN price subtracted from the per application CLIN price for the PCT application
6-10 days	20% of the per application CLIN price subtracted from the per application CLIN price for the PCT application
11-15 days	30% of the per application CLIN price subtracted from the per application CLIN price for the PCT application **
16-20 days	40% of the per application CLIN price subtracted from the per application CLIN price for the PCT application **
More than 21 days	50% of the per application CLIN price subtracted from the per application CLIN price for the PCT application **

**Contractor performance at this level may lead to non-assignment of work, non-exercise of an option period, or termination for default.

SECTION C – DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C.1 PURPOSE

The intent of this contract is to obtain comprehensive services to provide an international search report and a written opinion of the International Searching Authority under the provisions of the Patent Cooperation Treaty (PCT) for international applications in which the United States Patent and Trademark Office (USPTO) is the International Searching Authority (ISA). See <http://www.wipo.int/pct/en/texts/index.htm> or the Manual of Patent Examining Procedure (MPEP), Appendix T for the text of the PCT and regulations under the PCT. The Contractor shall furnish the necessary personnel, material, equipment, services, and facilities (except as otherwise provided or specified) to perform the following Statement of Work/Specifications.

C.2 BACKGROUND

The PCT is a multilateral treaty administered by the International Bureau (IB) of the World Intellectual Property Organization (WIPO). As of mid-2005, there are 126 countries party to the PCT ("PCT Contracting States"). The PCT provides applicants with a simplified means for filing foreign patent applications in those countries by filing a single international application (a "PCT application").

Upon completion of a formalities review by the receiving Office, a copy of the international application is sent to an International Searching Authority (ISA) for performance of an international-type search and the preparation of an international search report together with a written opinion of the ISA.

C.3 SCOPE

The Contractor shall furnish the necessary personnel, materials and services, (except as otherwise provided or specified) to perform the following Statement of Work/Specifications. The Contractor will be provided with source documents, hereafter referred to as PCT applications, and the PCT forms that will be necessary for the accomplishment of the many requirements of this contract.

C.4 REQUIREMENTS

The following is a description of the contractual responsibilities and deliverables required by the USPTO under this contract. Offerors are encouraged to respond to all of the following with their approach for the accomplishment of the work. Offerors who fail to respond to all of the requirements listed below will not be considered for evaluation or award.

All work performed must be in accordance with the PCT International Search and Preliminary Examination Guidelines (a copy of which is posted at <http://www.wipo.int/pct/en/texts/pdf/ispe.pdf>). A graphical representation of the workflow for a typical PCT application is included as Attachment 10.

The contractor will have a maximum of 30 calendar days, hereafter referred to as "the 30-day period" to prepare and deliver final accepted deliverable to the USPTO for each PCT application. The 30 day period starts on the day that the USPTO first makes the PCT application available for pick up at the designated location at the USPTO and will include any day (any portion of a day will be counted as a whole day) that the USPTO has not received the final deliverable at the designated location at the USPTO, that are accepted in accordance with Section E, from the Contractor except where otherwise indicated. Once the final deliverables have been accepted by the USPTO, the number of days taken by the Contractor to prepare and deliver the final accepted deliverables will be calculated and compared to the allowed 30 calendar day maximum. All final deliverables will be accepted in accordance with the evaluation criteria set forth in Section E.

Upon receipt of each PCT application by the Contractor, the Contractor must perform a formalities review.

After completions of the formalities review, the Contractor must review the claims to see if there are multiple inventions present, that is, the contractor must make an initial assessment as to the Unity of Invention of the claims in the PCT application. It is strongly recommended that this assessment be made within the first 5 days of the 30 day period, to allow for enough time to complete the remaining requirements. If the Contractor believes that Unity of Invention is lacking in any given PCT application, the Contractor shall complete and deliver to the USPTO an Invitation to Pay Additional Search Fees, Form PCT/ISA/206 (Form 206). The USPTO will notify the Contractor what inventions need to be considered to complete the remaining deliverables.

In very rare instances, all the claims in an international application may be held to be unsearchable. In such situations, the Contractor shall prepare a Non-Establishment of International Search Report (PCT/ISA/203 form, hereafter referred to as “Form 203”).

In all other situations where at least a claim is searchable, the Contractor shall prepare an International Search Report (PCT/ISA/210 Form, hereafter referred to as “Form 210”), a Notification of Transmittal of the International Search Report or the Declaration (PCT/ISA/220 Form, hereafter referred to as “Form 220”) and a Written Opinion of the International Searching Authority (PCT/ISA/237 Form, hereafter referred to as “Form 237”). In preparing these forms, the contractor must conduct a search to discover relevant prior art. Such prior art may include US and foreign patent documents and non-patent literature (NPL). The Contractor must also apply the discovered prior art to the claims of the PCT application.

In addition to the PCT forms, the Contractor shall provide the USPTO a Recordation of Search History. The Recordation of Search History will include the field of search, search strategy, details of classification, non-patent literature and database searches.

The “final” deliverable shall consist of a Form 210, Form 220, Form 237, Recordation of Search History, and cited references or a Form 203 and Form 220. The Form 206 is not considered a “final” deliverable. All final deliverables necessary for submission to the USPTO by the Contractor shall be delivered simultaneously to the USPTO. The final deliverable will include the PCT forms and the Recordation of Search History on a computer readable medium and hard copies of any Foreign patent documents and non-patent literature cited in the PCT forms.

Acceptance of the deliverables by the Government shall be done in accordance with the 30 day period and the evaluation criteria set forth in Section E.

C.4.1 Performing Formality Review

The Contractor must perform a formalities review for each PCT application. The formalities review will include: making sure the computer readable medium which contains the PCT application is readable, verifying that the first claimed invention is encompassed in a CLIN for which the Contractor has been awarded the contract, verifying that the PCT application is complete including a form PCT/ISA/225 where applicable. The contractor shall return the PCT application to the USPTO if the computer readable medium is unreadable or the PCT application is incomplete. If the contractor returns the PCT application within 3 business days, the 30 day period will be restarted on the day that the USPTO makes a new or complete copy of the PCT application available to the Contractor. If the PCT application is returned to the USPTO beyond 3 business days from when the PCT application was first made available for pick up, the 30 day period will be suspended from the day the USPTO receives the PCT application and will restart the day the USPTO makes a new or complete copy of the PCT application available for pick up by the Contractor.

C.4.2 Making a Unity of Invention Determination and Preparing the Invitation to Pay Additional Fees (PCT/ISA/206 form, hereafter “Form 206”), if applicable

C.4.2.1 For each PCT application, the Contractor shall determine if there is only one invention claimed or if there are multiple inventions claimed using the Unity of Invention criteria as set forth in Chapter 10 of the PCT International Search and Preliminary Examination Guidelines (a copy of which is posted at <http://www.wipo.int/pct/en/texts/pdf/ispe.pdf>). The first claimed invention and all claims having unity therewith will always be considered by the Contractor when preparing the final deliverables. Where multiple inventions are present, the Contractor shall be required to prepare and deliver a Form 206 to the USPTO, which sets forth

the groups of claims present, the supporting rational for making the lack of unity of invention determination, and the fee to search the additional inventions. From the date the Form 206 is received by the USPTO, the 30-day period for that application will be temporarily suspended. During this suspension period, the Contractor is encouraged to conduct the search and prepare the final deliverable, for the first claimed invention and claims having unity therewith as these actions will always be required for the first claimed invention and claims having unity therewith. The purpose of the temporary suspension of the 30-day period is to allow the applicant the opportunity to pay for the search of additional inventions. Instructions for filling out Form 206 are set forth on Attachment 3.

C.4.2.2 A USPTO official will review the Contractor submitted Form 206 for acceptance. The USPTO will reject the Contractor submitted Form 206 if the USPTO determines that Unity of Invention is present. As such, the contractor will be notified that all claims of the PCT application must be considered in the preparation of the final deliverables and that an error against the quality requirements will be charged as set forth in Section E. The 30-day period for the PCT application will resume from that date of notification. If correction to the Form 206 is required, the Contractor will be notified of the need to correct the Form 206 or, at the USPTO discretion, the USPTO will correct the Form 206 and the Contractor will be informed of the necessary corrections for future reference. If the Contractor is notified that correction is required, the 30 day period will resume as of the date of notification. The necessity for correction will be noted by the USPTO and an error against the quality requirements may be charged to the Contractor irrespective of who makes the correction. A USPTO official will sign an accepted Form 206 and mail the form to the applicant.

C.4.2.3 The applicant will be given one month to respond to the Form 206. The USPTO will notify the Contractor of applicant's response to the Form 206. The 30-day period for the PCT application will resume from that date of notification. In addition to the first claimed inventions and claims having unity therewith, the Contractor shall consider all claims for which additional search fees have been paid by the applicant in the preparation of the final deliverables. If no response to the Form 206 is received from the applicant within the one-month time period, the USPTO will notify the Contractor in writing that no response was filed and that the Contractor shall only consider the first claimed inventions and claims having unity therewith when preparing the final deliverables.

C.4.2.4 Section E provides a list of essential criteria that must be completed correctly on the Form 206 for the deliverable to be considered to have no errors.

C.4.3 Preparing the Non-Establishment of International Search Report (PCT/ISA/203 form, hereafter referred to as "Form 203")

C.4.3.1 In very rare instances, all the claims in a PCT application may be held to be unsearchable. Claims are unsearchable if: 1) they are directed to subject matter that the USPTO considers ineligible for patent protection; 2) they are so unclear that no meaningful search can be carried out; or 3) they are directed to specific nucleotide and/or amino acids sequences for which applicant has not supplied a sequence listing in computer readable form, either upon filing or after receiving an invitation to furnish a computer readable form (CRF) of the sequence listing. MPEP section 706.03(a) defines such subject matter under the heading "Subject Matter Eligibility." MPEP sections 2105 and 2106 contain additional information on biotech inventions, mathematical algorithms and computer programs. If all of the claims are directed to such subject matter, the Contractor shall prepare the Form 203 by entering all the data as specified on Attachment 2.

C.4.3.2 If, after having read the international application, the Contractor considers that the description, claims or the drawings are so unclear that no meaningful search can be performed on all of the claims, the Contractor shall prepare the Form 203 by entering all the data as specified on, Attachment 2.

C.4.3.3 Where an international application contains disclosure of one or more specific nucleotide and/or amino acid sequences, the application must also contain a sequence listing complying with the standard set forth in Annex C of the PCT Administrative Instructions. A copy of the PCT Administrative Instructions is found in the MPEP as Appendix AI and is posted on the Internet <http://www.wipo.int/pct/en/texts/index.htm>. If the applicant has not provided both a paper copy of the sequence listing and CRF of the sequence listing or if the copies provided together with the international application are not in compliance with Annex C of

the PCT Administrative Instructions, the International Searching Authority must issue an Invitation to Furnish Nucleotide and/or Amino Acid Sequence Listing, Form PCT/ISA/225, (Form 225), to the applicant that sets forth a time period for response. The Form 225 will be issued by the USPTO. After expiration of the time limit for response, the PCT application together with a copy of the applicant's response to the Form 225 will be forwarded to the Contractor. Where all the claims in the international application are directed to specific amino acid and/or nucleotide sequences for which no sequence listing complying with Annex C has been provided, the Contractor shall prepare the Form 203 by entering all the data as specified on Attachment 2.

C.4.3.4 Section E provides a list of essential criteria that must be completed correctly on the Form 203 for the deliverable to be considered to have no errors. The 30 day period will be suspended as of the date that the USPTO receives the Form 203. If the Form 203 is rejected or requires correction to conform with Section E, the Contractor may be charged with an error as set forth in Section E. The PCT application may be returned to the Contractor for correction and the 30 day period will resume from the date that the USPTO make the PCT application available for pick up. At the discretion of the USPTO, the USPTO may correct the Form 203 in lieu of returning the PCT application to the Contractor for correction. The error may be charges irrespective of who makes the corrections.

C.4.4 Preparing the International Search Report (PCT/ISA/210 Form, hereafter referred to as "Form 210")
The Contractor shall prepare the Form 210 by entering all the data as specified in Attachment 4.

C.4.4.1 Classification.

The Contractor must assign both a U.S. classification and an IPC Classification to the claimed subject matter. The USPTO classification tools can be accessed via the Internet. The tools may provide assistance in determining the US classification for a given technology. The current IPC Concordance may provide some general assistance to determine the corresponding IPC classification for a given US class/subclass. However, the IPC Concordance only provides an approximation of the correspondence between IPC classification and US classification. The actual IPC schedules (A through H) for a given IPC classification indicated in the Concordance should be further consulted to determine if a more detailed or precise corresponding IPC classification can be determined than that listed in the Concordance for a given US class/subclass.

C.4.4.2 Search Functions.

The purpose of the search is to discover relevant art by searching US and foreign patent documents and non-patent literature (NPL). For each PCT application received (except PCT applications where a Form 203 has been accepted by the USPTO), the Contractor is responsible for performing an international-type search in accordance with MPEP Chapter 900 and the search guidelines. General guidelines on searching are found in MPEP 719.05 and 900. More detailed technology-specific information on where to conduct searches can be found in USPTO search guidelines (sample search guidelines in Attachment 11). The USPTO search guidelines list relevant databases by technology and/or US classification (arranged by class/subclass), which are routinely searched by examiners in a given technology. Depending on the precise nature of the subject matter claimed, databases other than those listed in the search guidelines might be relevant. Conversely, not all databases listed in a particular technology search guidelines may be pertinent to the particular subject matter being searched. The search guidelines may be changed or updated on a recurring basis.

At a minimum, the Contractor must meet the minimum documentation requirements in accordance with PCT Rule 34.

C.4.4.3 References.

The Contractor shall list relevant prior art references on the international search report. These references will also be applied against the claims in the written opinion of the ISA.

Relevant prior art is defined as everything which is made available to the public anywhere in the world by means of written disclosure (including drawings and other illustrations) and which is capable of being of assistance in determining that the claimed invention is or is not new and that it does or does not involve an inventive step (i.e., that it is or is not obvious), provided that the public availability occurred prior to the "relevant date". For the purposes of the international search report, the relevant date is the international filing date. However, the definition of "relevant date" changes for the purposes of the written opinion established by the ISA. Specifically the "relevant date" for the purposes of that written opinion is either the international filing date, or where the international application validly claims priority of an earlier application, the filing date of such earlier application. Where a reference has been published between the international filing date and the claimed priority date, it is necessary to look at the priority application in order to determine if the claimed invention was adequately described in the earlier application. The USPTO will provide the Contractor with copies of US priority applications so that the Contractor can determine whether the claimed invention was adequately described and enabled in the priority application. Because the time limit for adding and/or correcting a priority claim and for furnishing a certified copy of priority applications may not yet have expired at the time that the written opinion is prepared, if a copy of the priority application is not provided, the written opinion will be prepared as though the claimed priority date is valid. The Contractor should make every effort to find relevant prior art that was made available to the public more than one year before the priority date.

Any published patent applications or patents that would constitute relevant prior art, except where the publication date is the same or later than international filing date, will be cited on the international search report, where the filing date or claimed priority date is earlier than the international filing date. However, these published applications or patents are not considered prior art for the written opinion. The written opinion of the ISA must draw attention to such documents since they may be relevant to the determination of novelty and inventive step by designated or elected Offices.

The Contractor must categorize each reference cited. A reference may have multiple categories. The Contractor must determine the relevant claims for each category of a reference. Category "X" implies that when the reference is taken alone, the relevant claims cannot be considered novel or cannot be considered to include an inventive step. Category "Y" implies that when the reference is taken in combination with one or more other such cited references, the relevant claims cannot be considered to include an inventive step, such combination of referenced being obvious to a person skilled in the art. Category "A" as used in a reference defines the general state of the art.

In selecting the references to be cited and categorized, the contractor should carefully compare the references with one another and with the disclosure of the PCT application to avoid the citation of an unnecessary number of references. The contractor is not called upon to cite all references that may be available, but only the "best." The number of the state of the art references (category A) which are cited should be limited. In some PCT applications, only one state of the art reference may need to be cited per claimed invention. Only in rare instances should there be more than five state of the art references cited per claimed invention. Citing multiple references where any one reference is as good as, but no better than the others, should be avoided.

The best reference should always be applied against the claims. Sometimes the best reference will have a publication date less than a year prior to the application priority date. In these cases, if a second reference exists which has a publication date more than a year prior to the application priority date, though inferior, is an adequate basis for rejection, the claims should be additionally rejected thereon.

C.4.4.4 Section E provides a list of essential criteria that must be completed correctly on the Form 210 for the deliverable to be considered to have no errors. The 30 day period will be suspended as of the date that the USPTO receives the final deliverables. If the USPTO determined that the Form 210 requires correction to conform with Section E, the Contractor may be charged with an error as set forth in Section E. The PCT application may be returned to the Contractor for correction and the 30 day period will resume from the date that the USPTO make the PCT application available for pick up. At the discretion of the USPTO, the USPTO may correct the Form 210 in lieu of returning the PCT application to the Contractor for correction. The error may be charges irrespective of who makes the corrections.

C.4.5 Preparing the Notification of Transmittal of the International Search Report or the Declaration (PCT/ISA/220 Form, hereafter “Form 220”)

The Contractor shall prepare the Form 220 for all PCT applications by entering all the data as specified on Attachment 5. Section E provides a list of essential criteria that must be completed correctly on the Form 220 for the deliverable to be considered to have no errors. The 30 day period will be suspended as of the date that the USPTO receives the final deliverables. If the the USPTO determined that the Form 220 requires correction to conform with Section E, the Contractor may be charged with an error as set forth in Section E. The PCT application may be returned to the Contractor for correction and the 30 day period will resume from the date that the USPTO make the PCT application available for pick up. At the discretion of the USPTO, the USPTO may correct the Form 220 in lieu of returning the PCT application to the Contractor for correction. The error may be charges irrespective of who makes the corrections.

C.4.6 Preparing the Written Opinion of the International Searching Authority (PCT/ISA/237 Form, hereafter “Form 237”)

C.4.6.1 The Contractor shall prepare the Form 237 for all PCT applications (except PCT applications where a Form 203 has been accepted by the USPTO) by entering all the data as specified on Attachment 6.

C.4.6.2 Form 237 is used to apply the prior art found during the search against the claimed invention by providing detailed explanations as to novelty, inventive step and industrial applicability of the claimed invention. Form 237 sets forth: the basis of the opinion with respect to the language of the international application and where applicable, the use of any sequence listings and/or tables related to sequence listings if used in the search; the non-validity of the priority claim(s), where applicable; the non-establishment of the opinion with regard to novelty, inventive step and industrial applicability, where applicable to one or more claims, and the reasons therefor; lack of unity of invention, where applicable and the grouping of claims and explanation supporting the lack of unity of invention; a statement with regard to novelty, inventive step or industrial applicability for the claims searched and detailed explanations supporting such statement; an indication of certain documents cited that cannot be used in the reasoned statements because of the date of publication; certain defects in the international application, where applicable; and certain observations on the international application, where applicable.

C.4.6.3 Section E provides a list of essential criteria that must be completed correctly on the Form 237 for the deliverable to be considered to have no errors. The 30 day period will be suspended as of the date that the USPTO receives the final deliverables. If the the USPTO determined that the Form 237 requires correction to conform with Section E, the Contractor may be charged with an error as set forth in Section E. The PCT application may be returned to the Contractor for correction ant the 30 day period will resume from the date that the USPTO make the PCT application available for pick up. At the discretion of the USPTO, the USPTO may correct the Form 237 in lieu of returning the PCT application to the Contractor for correction. The error may be charges irrespective of who makes the corrections.

C.4.7 Recordation of the search history.

Supplemental to the Form 210 and Form 237, the Contractor is required to document the search history in such detail that the complete extent of the search (e.g. field of search, search strategy, details of classification, non-patent literature and database searches, etc.) accomplished by the Contractor can be immediately envisaged and recreated by the USPTO. The recordation of the search history is intended to provide the USPTO with the necessary information to assess Contractor quality with respect to the search.

The items listed in Attachment Recordation of Search History are required items for the recordation of the search, and must be provided.

Recordation of the Search History

Background

The procedures listed below provide the contractor with the necessary guidelines for recording the details of the search history for each PCT application. The search history provides a complete, accurate, and uniform record of what has been searched and considered by the contractor. The search history is important in evaluating the prior art determinations made by the contractor in the search report and/or written opinion.

Field of Search

The contractor shall provide the United States Patent Classification (USPC) or International Patent Classification (IPC) classifications of domestic and foreign patents, abstract collections, and publications in which a classification search for prior art was made and the database used for the classification search. The contractor must also identify other information collections and sources in which the search for prior art was made. The contractor shall indicate the date(s) on which the search was conducted.

In order to provide a complete, accurate, and uniform record of what has been searched and considered by the contractor for each application, the USPTO has established procedures for recording search data supplemental to the International Search Report/Written Opinion. Such a record is of importance to anyone evaluating the quality of the search, the prior art made of record, and the determinations regarding novelty, inventive step or other requirements and which are based upon the prior art.

“SEARCH HISTORY” Information

The following searches are required to be recorded in Microsoft Word® and provided to the USPTO in a document entitled “SEARCH HISTORY” by the contractor along with the date the search was conducted and the searcher’s full name, according to the following guidelines listed below. Database results should be provided as ASCII text files.

I. Classification Information

The classification information portion should correspond with the “Field of Search” indicated in the International Search Report:

(A) A complete search of a classification, including all USPC and foreign patent documents, whether categorized by USPC or IPC classification, and other publications placed therein. A classified search is a complete search of all the documents in a particular subclass, whether filed by U.S. or IPC classification and it is not limited by any text query or other means. If a classified search was performed, the class and subclass must be recorded in the “SEARCH HISTORY” document along with the date that the search was performed (or updated) and the searcher’s initials.

Examples

424/270, 272, 273
224/42.1 F
414/DIG. 4
D3/32 R
A61K 9/22
A61K 31/56 - A61K 31/585

Unless a classified search as defined was performed, it would be improper to merely record the class and subclass in the “SEARCH HISTORY” document without any indication that a limited classified search was performed.

(B) A limited search of a classification, for example, a search that is restricted to an identifiable portion of the patent documents placed therein. A limited classified search is defined as a search of a classified patent document database limited by a text query or a set of text queries or other means. If, however, only the publications in a classification are searched, see item numbered II(C) below. If a limited classified search was performed, the class and subclass followed by an appropriate annotation must be recorded in the "SEARCH HISTORY" document along with the date that the search was performed (or updated) and the searcher's initials. The complete classification, followed by the information defining the portion of the classification searched, in parentheses, shall be recorded.

Examples

414/1 (US only)
238/6 (1954 to date)
A61K 9/22 (1990 to date)
705/14 (text search only – see search history printout)
4C083 AC10 (F-term, abstract only)
A61B 5/00N4P (ECLA, text search of full doc – see search history printout)
G06F1/2 (text search only – see search history printout)

(C) Text search only performed in a particular database (no classified or limited classification search was performed). If a text search was performed in a particular database and no classified or limited classified search was performed, the following entry must be recorded on the "SEARCH HISTORY" document: "See search history printout(s)" along with the date that the search was performed (or updated) and the searcher's initials.

II. Other "SEARCH HISTORY" Information

Other "SEARCH HISTORY" information is intended to complete the application file record of areas and/or documents considered by the contractor in their search. The contractor should record the following searches in the manner indicated, with each search dated:

(A) A cursory search, or scanning, of a USPC or IPC classification, i.e., a search usually made to determine if the documents classified there are relevant. Record the classification, followed by "(cursory)."

Examples

250/13 (cursory)
A61K 9/44 (cursory)

(B) A search of a publication not located within the classified patent file, e.g., a library search, a textbook search, a Chemical Abstracts search, etc. Record according to the following for each type of literature search:

(1) Abstracting publications, such as Chemical Abstracts: Record name of publications, list terms consulted in index, and indicate period covered.

Examples

Chem. Abs, Palladium hydride Jan.-June 1975
Eng. Index, Data Conversion Analog to Digital 1975

(2) Periodicals — list by title and period or volumes covered, as appropriate.

Examples

Popular Mechanics, June-Dec. 1974
Lubrication Engineering, vols. 20-24

(3) Books — list by title and author, edition or date, as appropriate.

Example

Introduction to Hydraulic Fluids, Roger E. Hatton, 1962

(4) Other types of literature not specifically mentioned herein (i.e., catalogs, manufacturer's literature, private collections, etc.).

Record data as necessary to provide unique identification of material searched.

Example

Sears Roebuck catalog, Spring-Summer, 1973.

A cursory or browsing search through a number of materials that are not found to be of significant relevance may be indicated in a collective manner, e.g., "Browsed Scientific and Technical Information Center (STIC) shelves under QA 76.5" or "Browsed text books in STIC relating to [insert relevant technology]" More detailed reviews or searches through books and periodicals or any search of terms in abstracting publications should be specifically recorded.

(C) The search of only the publications in a subclass.

Record class and subclass followed by "(publications only)."

Examples

43/56 (publications only)

99/DIG. 15 (publications only)

(D) In each application involving a search of a computer accessed text or chemical structure or an amino acid or nucleic acid sequence database, the contractor shall provide, the name of the database service, the date when the search was made, the computer databases searched, and the search queries, including text, chemical structure, or sequences. The queries shall be documented by providing the following minimum information:

- (1)** The search logic containing the key words and/or query logic including any database-specific identifiers, prefixes, suffixes, truncation symbols, chemical registry numbers, etc., or chemical structure or sequence used as a query.
- (2)** The name of the file or files searched and the database service.
- (3)** Date of the search.
- (4)** For sequence or chemical structure searches, the precise sequence by sequence listing identifier or chemical structure searched must be identified. Any partial sequence or partial chemical structure searched must be specified by identifying the partial sequence or partial chemical structure and the parent sequence or chemical structure from which the partial sequence or chemical structure was taken from and the precise location where the partial sequence or chemical structure resides within the parent sequence or chemical structure.

Examples

- a) Nucleic acid sequence SEQ ID NO: 5 searched for complements using BLAST, default parameter settings, against Genbank database.
- b) Chemical structure search via STN of formulae II in claim 1 in CAS registry file database.
- c) Nucleotides 10-50 of nucleic acid sequence SEQ ID NO: 5 searched for complements using BLAST, default parameter settings, against Genbank database.
- d) R1 of the Chemical structure of formulae II in claim 1 searched via STN in CAS registry file database.
- (5)** For any sequence search accomplished by the contractor, the contractor must provide additionally to II D (4) above, the databases searched, the program and parameters used for the sequence search and

alignments, and the sequence alignments corresponding to any prior art discovered and cited in the search report or written opinion.

- (6) The details of searches using combinations of any of the foregoing searches, including those combined with classified searches must be provided, and consistent such that all the information as listed above for any of the foregoing searches is included and how the combined search was accomplished.

Example

435/6 classified search results in WEST further refined by text search query: probe and insulin gene.

- (7) A printout of the chemical structure edited and uploaded for search within commercial databases must be provided as part of the search history.

Two ways in which this minimum documentation can be provided are:

- (1) providing as part of the search history , and as necessary annotating, the computer search printout resulting from a computer assisted search; or,
- (2) recording the required information in the "SEARCH HISTORY" document.

For the methods above, the name of the database service and the expressions "(see form)" or "(see printout)" should be recorded as appropriate with the date.

- (8) Searcher's initials.

(E) Other Databases

For other types of publicly accessible computer accessed databases (e.g., CD-ROM databases, specialized databases, etc.), record data as necessary to provide unique identification of material searched and sufficient information as to the search query or request so that the search can be updated. If any other database search was performed, the specific database search must be recorded in the "SEARCH HISTORY" document along with the date that the search was performed (or updated) and the searcher's initials. The record should also document the location of the database and its form (i.e. CD-ROM).

Example: Citing a biotech CD-ROM database

Entrez: Sequences, National Center for Biotechnology Information, Version 7.19.91b (CD-ROM, TC 1600)
Searched HIV and vaccine; neighbored Galloway article dated 6/5/91 on April 1, 1990.

Example: Citing a non-biotech CD-ROM database

Computer Select, (November, 1991), Ziff Davis Communications Co., (CD-ROM, STIC), Searched Unix and emulation on December 1, 1991.

Printouts

Most of the database services accessed in application searches provide a command to display or print the search history that includes most, if not all, of the minimum required information for documenting database searches. The printout(s) must include the following minimum information: (a) all the search logic or chemical structure or sequence used as a database query; (b) all the name(s) of the file(s) searched and the database services; (c) the date the search was made or updated; and (d) the searcher's full name. Any missing elements may be documented in writing on the printout of the search history or by supplying further portions of the search transcript that do include the missing elements. For further information and examples relating to printouts provided by database services, see MPEP 719.05. If there are several search statements in the history, the statement(s) for which the results were reviewed should be identified by indicating, "results reviewed" for that search statement. The form or printout page(s) with the required data elements of a search should be appended to the search history document.

SECTION D - PACKAGING AND MARKING

D.1 PACKAGING AND PACKING REQUIREMENTS

The Contractor shall package all products delivered under this contract to ensure safe delivery at their destination(s) in accordance with normal commercial practice for domestic shipment. Deliverables, reports and manuals may also be required to be submitted electronically at no additional cost to the Government.

D.2 MARKING REQUIREMENTS

The Contractor shall mark and/or label all shipping containers holding products/deliverables being returned or delivered to the USPTO to show the contract number, a brief description of the contents, Contractor's name, and the name of the Contracting Officer's Technical Representative.

SECTION E - INSPECTION AND ACCEPTANCE

E.1 52.252-01 CLAUSES INCORPORATED BY REFERENCE

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far/>

52.246-04	Inspection of Services – Fixed Price	AUG 1996
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E.2 EVALUATION CRITERIA

The USPTO has determined a set of evaluation criteria that will be applied to the Contractor supplied deliverables. The evaluation criteria correspond to the content of the deliverables which must be correct for the USPTO to acceptable the deliverables. The USPTO will use the evaluation criteria to determine if the deliverables contain errors that require correction. The evaluation criteria are divided into three levels.

E.2.1 LEVEL ONE EVALUATION CRITERIA

The evaluation criteria included in level 1 are the evaluation criteria that the USPTO deems to be the most important. The contractor will be assessed a single level one error if the USPTO determines that any deliverable for a given PCT application is deficient in any one of the level one evaluation criteria. If the USPTO determines that a PCT application contains a level one error, the PCT application will be returned to the Contractor for correction. The level one evaluation criteria are:

- (1) Is there art that would render unpatentable any claim shown in the International Search Report (ISR) or Written Opinion to have both novelty and inventive step (i.e., ISR shows no X or Y references applicable to that claim)? This includes art that the Contractor cited in the ISR/Written Opinion or any non-discovered art that Contractor would have reasonably been expected to have found.
- (2) Were any improper opinions regarding the lack of novelty of one or more claims raised?
- (3) Were any improper opinions regarding the lack of inventive step of one or more claims raised?
- (4) Were any improper opinions regarding the lack of industrial applicability of one or more claims raised?

E.2.2 LEVEL TWO EVALUATION CRITERIA

The level two evaluation criteria included the evaluation criteria that the USPTO deems to be of a substantive nature. The contractor will be assessed a single level two error if the USPTO determines that any deliverable for a given PCT application is deficient in any one of the level two evaluation criteria. If the USPTO determines that a PCT application contains a level two error, the PCT application will be returned to the Contractor for correction. The level two evaluation criteria are:

- (1) Was the field of search and search strategy appropriate to the claimed subject matter, and did the search encompass the inventive concept and the claimed features?
- (2) Was the application properly classified using the latest version of the IPC?
- (3) Were all searchable claims searched?

- (4) Were all unsearchable claims indicated as being unsearchable?
- (5) Were relevant documents properly identified and characterized as to how they apply to each claim subject to search (e.g., identified as X, Y or A with respect to each claim to which they apply)?
- (6) Where the international application was considered to comply with unity of invention, was this determination appropriate?
- (7) Where the international application did not comply with unity of invention, and lack of unity was asserted, was the grouping of claims proper and clearly explained with supporting rationale? Were all claims addressed with regard to novelty, inventive step, and industrial applicability?

E.2.3 LEVEL THREE EVALUATION CRITERIA

The level three evaluation criteria includes the evaluation criteria that the USPTO deems to be of a formalities review nature. If the USPTO holds that a PCT application contains a level three error, the PCT application will be returned to the Contractor for correction or, at the option of the USPTO, the USPTO will correct the error(s) and notify the contractor of the errors for future reference. The level three evaluation criteria are:

- (1) Was the search recordation complete and in proper form?
- (2) For each objection based on prior art, were references with publication dates more than one year prior to the earliest effective date of the application cited, if available?
- (3) Were all references relied upon in the Written Opinion cited?
- (4) Where the international application did not comply with unity of invention, was lack of unity asserted?
- (5) For each opinion asserting lack of novelty or lack of inventive step, were references with publication dates more than one year prior to the earliest effective date of the application applied, if available?
- (6) Where appropriate, were all opinions regarding the lack of industrial applicability of claims raised?
- (7) Were all opinions regarding the lack of industrial applicability of one or more claims proper?
- (8) Were all U.S. priority claims treated properly?
- (9) Where appropriate, were observations raised relating to the clarity of the claims, the description, the drawings, and whether the claims are fully supported by the description?
- (10) Were all observations raised relating to the clarity of the claims, the description, the drawings, and whether the claims are fully supported by the description proper?
- (11) Were opinions and observations clearly explained using language appropriate to examination under the Patent Cooperation Treaty?
- (12) Was the most comprehensive reference found?
- (13) For each opinion asserting lack of novelty or lack of inventive step, was the most comprehensive reference applied?
- (14) Bibliographic data errors including:
 - Mailing address (error may affect ability to deliver document)
 - International filing date (WIPO will report error)
 - International application number (WIPO will report error)
 - Applicant's name (WIPO will report error)
 - Priority date (WIPO will report error)

- (15) Other formality errors, such as:
- (a) IPC codes;
 - (b) Figure to be published with abstract; and (c) Abstract missing.

E.3 REQUIRED QUALITY STANDARDS

The Contractor will be held to specific error rates for level one and level two. Acceptable performance is defined as an error rate less than or equal to 5.49%. Contractor performance at or above an error rate of 5.50% for level 1 may lead to non-assignment of work, non-exercise of an option period or termination for default. The error rate for level one will be calculated by dividing the number of level one errors held by the USPTO by the total number of PCT applications initially submitted and then multiplying by 100. Contractor performance at or above an error rate of 5.50% for level 2 may lead to non-assignment of work, non-exercise of an option period or termination for default. The error rate for level two will be calculated by dividing the number of level two errors held by the USPTO by the total number of PCT applications initially submitted and then multiplying by 100. Level 3 errors must be corrected in order for the deliverables to be accepted by the USPTO but no specific error rate will be applied.

SECTION F – DELIVERIES OR PERFORMANCE**F.1 52.252-01 CLAUSES INCORPORATED BY REFERENCE**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far/>

52.242-15	Stop Work Order	AUG 1989
52.242-17	Government Delay of Work	APR 1984
52.247-34	F.o.b. Destination	NOV 1991

F.2 EFFECTIVE PERIOD OF THE CONTRACT

The effective period of this contract is as follows:

Base Period	Date of Award to 6 months thereafter
Option Period 1	Date of Option Exercise to 6 months thereafter
Option Period 2	Date of Option Exercise to 6 months thereafter

Any order issued during the effective period of this contract and not completed within that period, shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and the Government's rights and obligations with respect to the order to the same extent as if the order were completed during the contract's effective period. Delivery orders or task orders will not be issued prior to the availability of appropriated funds from which expenditures there under may be made.

F.3 ORDERING PROCEDURES

- A. Services to be furnished under this contract shall be ordered by the issuance of a task or delivery order (Sent to the Contractor via electronic mail/fax from the Contracting Officer (CO)).
- B. All orders issued hereunder are subject to the terms and conditions of this contract. The Contract shall govern in the event of conflict with any task or delivery order.
- C. An order shall be "issued" for purposes of the contract, when it is either deposited in the U.S. Postal Service mail or otherwise furnished to the contractor in conformance with the schedule.
- D. Orders issued will be at the fixed unit prices awarded for CLIN 0001 through CLIN 0008 and within the delivery times specified.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1 CONTRACT ADMINISTRATION

Notwithstanding the Contractor's responsibility for total management during the performance of the contract, the administration of the contract will require maximum coordination between the USPTO and the Contractor. The following individuals will be the USPTO points of contact during the performance of the contract.

(a) Contracting Officer's Technical Representative

A Contracting Officer's Technical Representative (COTR) will be designated on authority of the Contracting Officer to monitor all technical aspects and assist in administering the contract. The types of actions within the purview of the COTR's authority are to assure that the Contractor performs the technical requirements of the contract; to perform or cause to be performed inspections necessary in connection with performance of the contract; to maintain both written and oral communications with the Contractor concerning the aspects of the contract within his/her purview; to issue written interpretations of technical requirements of Government drawings, designs and specifications; to monitor the Contractor's performance under the contract and notify the Contractor and Contracting Officer of any deficiencies observed; and to coordinate Government-Furnished Property or Data availability and provide for site entry of Contractor personnel if required. A letter of designation will be issued to the COTR with a copy supplied to the Contractor, stating the responsibilities and limitations of the COTR. This letter will clarify to all parties to the contract the responsibilities of the COTR. At no time may the scope of work, price, delivery dates, or other mutually agreed upon terms or provisions of the contract be changed without being executed in writing by the Contracting Officer authorizing such changes.

(b) Contracting Officer

All contract administration will be effected by the Contracting Officer, address as shown on the face page of the contract. Communications pertaining to contract administration matters will be addressed to the Contracting Officer. No changes in or deviation from the scope of work shall be effected without a Supplemental Agreement executed by the Contracting Officer authorizing such changes.

G.2 CONTRACTING OFFICER'S AUTHORITY

The Contracting Officer is the only person authorized to make or approve any changes in any of the requirements of the contract and notwithstanding any provisions contained elsewhere in the contract, the said authority remains solely in the Contracting Officer. In the event the Contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any increase in costs incurred as a result thereof.

G.3 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR) -- TECHNICAL DIRECTION

(a) The Contracting Officer hereby designates the individual named below as the Contracting Officer's Technical Representative.

NAME: (to be designated at contract award)
ADDRESS: U.S. Patent and Trademark Office
(to be designated at contract award)
PHONE NO: (to be designated at contract award)

The COTR may be changed at any time by the Government without prior notice to the Contractor but notification of the change, including the name and address of the successor COTR, will be promptly provided to the Contractor by the Contracting Officer in writing.

(b) The responsibilities and limitations of the COTR are as follows:

- (1) The COTR is responsible for the technical aspects of the project and technical liaison with the Contractor. The COTR is also responsible for the final inspection and acceptance of all reports, and such other responsibilities as may be specified in the contract.
- (2) The COTR is not authorized to make any commitments or otherwise obligate the Government or authorize any changes, which affect the contract price, terms or conditions. Any Contractor request for changes shall be referred to the Contracting Officer directly or through the COTR. No such changes shall be made without the expressed prior authorization of the Contracting Officer. The COTR may designate assistant COTR(s) to act for him by naming such assistant in writing and transmitting a copy of such designation through the Contracting Officer to the Contractor.

G.4 INVOICING AND PAYMENT INSTRUCTIONS

- (a) Invoices shall be submitted in an original and two (2) copies to the following address:

**U.S. Patent and Trademark Office
Office of Finance, Mail Stop 17
P.O. Box 1450
Alexandria, VA 22313-1450**

- (b) A separate invoice shall be provided for each executed task/delivery order. To constitute a proper invoice, the invoice must include the following information or attached documentation:

- (1) Name of Contractor, invoice number and invoice date;
- (2) Contract number and delivery order number (one per invoice);
- (3) Description, price, and quantity of each CLIN ordered under that specific task/delivery order;
- (4) A copy of the Configuration Sheet provided with the original or modified task/delivery order;
- (5) Payment terms;
- (6) Name, title, phone number, and complete mailing address of responsible official to whom payment is to be sent.
- (7) Production or other reports as required by the Government.

- (c) If items are rejected for failure to conform to the contract requirements, the provisions in the Prompt Payment clause (FAR 52.232-25--see Section I) will apply to the new acceptance of replacement items.

G.5 INVOICING/PAYMENT FREQUENCY

The Contractor shall submit invoices on a monthly basis for work completed during the previous month.

G.6 ELECTRONIC PAYMENT INFORMATION

- (a) The information required by the clause 52.232-38, Submission of Electronic Funds Transfer Information with Offer, shall be forwarded by the Contractor to the below designated office no later than seven (7) days after contract award:

**U.S. Patent and Trademark Office
Office of Finance, Mail Stop 17
P.O. Box 1450
Alexandria, VA 22313-1450**

- (b) If requested, a form will be provided to the successful contractor for this purpose. In the event payment is assigned to a bank, thrift, or other financing institution pursuant to the clause FAR 52.232-23, Assignment of Claims, the Contractor should forward the form to the assignee for completion.

G.7 ACCESS TO GOVERNMENT SEARCH TOOLS

The USPTO will provide access to public WEST (a public version of the USPTO's Web-based Examiner Search Tool) for use in searching applications in this pilot program only, i.e. use is limited to searching cases for the pilot program. Public WEST is capable of performing automated searching of patents issued from 1790 to the current week of issue. Full document text may be searched on U.S. patents issued since 1971 and OCR text from 1920 to 1970. U.S. patent images from 1790 to the present may be retrieved for viewing or printing. Some limited foreign patent documents are available as well. In order to access public WEST, the contractor will be required to purchase Prizm 6.0/7.0 image software, which is commercially available software available for purchase at <http://www.pegasusimaging.com/prizmviewer.htm>. The USPTO will provide a reasonable number of secure fobs, which must be returned to the USPTO as the conclusion of the pilot. Recommended minimum computer specifications are provided as Attachment 12.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1 TYPE OF CONTRACT

The Government contemplates awarding multiple Indefinite Delivery Indefinite Quantity (IDIQ) contracts for a base period of 6 months and two 6 month option periods. The Government reserves the right to make a single award if it is in the best interest of the Government to do so.

H.2 ADVERTISING OF AWARD

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government, or is considered by the Government to be superior to other products or services. Advertisements, press releases and publicity of a contract by a supplier shall not be made without the prior express written permission of the Contracting Officer.

H.3 OPTION TO EXTEND THE TERM OF THE CONTRACT

(a) The USPTO may extend the term of the contract by unilateral modification to the contract provided that the USPTO shall give the Contractor a preliminary written notice of its intent at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the USPTO exercises this option, the extended contract shall be considered to include this option provision.

(c) The total duration of the contract, including the exercise of any options and award terms under this clause, shall not exceed 18 months from the effective date of this contract.

H.4 NO WAIVER OF DELIVERY SCHEDULE

(a) None of the following shall be regarded as an extension, waiver, or abandonment of the delivery schedule or a waiver of the USPTO's right to terminate for default: (i) Delay by the USPTO in terminating for default; (ii) Acceptance of delinquent deliveries; and (iii) Acceptance or approval of OCD submissions either after default in delivery or in sufficient time for the contractor to meet the delivery schedule.

(b) Any assistance rendered to the Contractor on the contract or acceptance by the USPTO of delinquent goods or services hereunder will be solely for the purpose of mitigating damages and is not to be construed as an intention on the part of the USPTO to condone any delinquency, or as a waiver of any rights the USPTO may have under subject contract.

H.5 DOMESTIC SOURCE REQUIREMENTS

In accordance with the domestic source requirements of P.L. 108-447, any search under this contract must be performed in the United States by persons that –

- (i) if individuals, are United States citizens; and
- (ii) if business concerns, are organized under the laws of the United States or any State and employ United States citizens to perform the searches.

H.6 CONFLICTS OF INTEREST AND PROTECTION OF CONFIDENTIAL INFORMATION

- (a) Scope

This document relates to the restrictions to be placed on the Patent Cooperation Treaty (PCT) search authority contractor, and all subcontractors, consultants, and individuals performing work under the contract for the purpose of avoiding improper conflicts of interest with respect to PCT searches and of protecting confidential information provided to PCT search authority contracting staff. The obligations

entered into under this clause are for the benefit of the patent applicants whose confidential information is provided to the contractor as well as for the benefit of the USPTO.

(b) Background

The role of the PCT search authority Contractor is to provide the skilled staff, tools, and other resources necessary to conduct in-depth quality prior art searches and related services and to enhance United States Patent and Trademark Office's (USPTO) search capabilities. Therefore, it is imperative that the Contractor be free of potential or actual conflicts of interest that could bias or appear to bias a Contractor's judgment in performing prior art search services. For example, a conflict may arise where the employee of the Contractor or subcontractor performing a search under this contract has performed a prior art search in the same art for a private party. In order to prevent and mitigate such conflicts, the USPTO intends to impose the following restrictions and contract requirements set forth below.

(c) Representations and Disclosures

- (1) The Offeror warrants and represents that neither it, nor any of its affiliates, has any ownership interest in U.S. patents, applications pending before the USPTO, or applications in process that will be filed at the USPTO. For purposes of this paragraph, a provisional application is considered pending before the USPTO until the date that is twelve month after the filing date of the provisional application.
- (2) The Offeror warrants and represents that its employees, subcontractors (of any tier) and their employees, and consultants who will perform prior art search functions under any resulting contract, have no ownership interest in U.S. patents, pending applications in the USPTO or applications in process that will be filed at the USPTO.
- (3) The Offeror agrees that its employees, the employees of any subcontractors (of any tier) and consultants who will perform prior art search functions or review the results of such searches under any resulting contract, will not hold a financial interest in an entity which derives substantial revenues in the art or technology in which that employee will perform prior art search functions. For example, an employee who conducts prior art search functions in the bio-technology field, may not own or have a financial interest in a bio-technology firm or entity. For purposes of this clause, the financial interests of the employee's spouse or minor child will be imputed to the employee. However, the restrictions of this paragraph shall not apply to financial interests in publicly traded securities valued at an aggregate of \$25,000 or less for all applicable entities or firms.
- (4) The Offeror agrees that it and its employees must have no financial interest in any owner or assignee of the application upon which they are conducting a prior art search under the contract.
- (5) If the Offeror derived twenty percent (20%) or more of its revenues in its preceding fiscal year from any single entity, excluding the USPTO, the Offeror agrees that it will not conduct searches, within the current fiscal year, in the arts or technologies in which that entity derives substantial revenue. The Offeror warrants and represents that it has identified any entity with respect to which this restriction applies in its proposal submitted in response to this solicitation. The Offeror further agrees that it will notify the contracting officer in writing within thirty (30) days of the close of each subsequent fiscal year of the identity of any entity with respect to which the restriction then applies.
- (6) The Offeror warrants and represents that, to the best of its knowledge and belief, there are no other relevant facts or circumstances which could give rise to a conflict of interest or that it has disclosed all relevant information concerning any potential conflict.

(d) Obligations

- (i) The Contractor agrees that during the period of performance of this contract, and for one year thereafter, neither it nor any of its employees will file any patent applications, including PCT applications, in the USPTO or elsewhere either on its own or any other entity's behalf.
- (ii) The Contractor agrees that during the period of performance of this contract, neither its employees nor subcontractors will perform a prior art search for a patent application upon which it, its employees, or its subcontractors, has previously performed a search on behalf of the applicants, inventors, assignees, or their representatives with respect to the same invention.

- (iii) The Contractor has a continuing obligation to be free from any conflicts of interest and agrees to promptly disclose any change in the factual basis for the representations set forth in paragraph c of this clause that occurs or has occurred at any time between the submission of its offer and final payment under the contract, including any change resulting from any ownership changes of the Contractor or its subcontractors during the period of performance of the contract. Likewise, the Contractor shall promptly disclose any information that comes to its attention suggesting that any of the representations under paragraph c of this clause may have been inaccurate when made.
- (iv) The contractor shall monitor the compliance of its employees, and those of its subcontractors and consultants with the requirements of paragraph c(3) this clause as follows:
 - i. The contractor shall require that each of its employees, and each of the employees of its subcontractors and consultants, who perform searches under this contract or review the results of such searches, provide reports to the contractor on their financial interests. The contractor shall require that all such employees file such reports within 30 days of first being assigned to perform search functions and within 30 days of an option being exercised. The reports shall include all assets held for investment or the production of income with a market value of over \$1000, measured at the time the reports are filed, and all sources of earned income of more than \$200 per year, held by the employee or the employee's spouse or minor children. The employee's personal residence, deposits in financial institutions, and the employee's salary for performance of work under this contract may be omitted from the reports.
 - ii. Ninety days after contract award, within 45 days of an option being exercised, the contractor shall report to the contracting officer as to whether its review of the reports required by paragraph d(4)(i) of this clause has revealed the existence of any financial interests that could result in a violation of paragraph c(3) of the clause, and the steps the contractor has taken to prevent any such violations. The reports submitted under this paragraph shall be deemed to be "performance reports" as that term is used in paragraph (e) of the Audit and Records – Negotiation clause of this contract.

(e) Access to and Use of Patent Application and Government-Furnished Information

- (i) The Contractor acquires no right or privilege to use or disclose any information contained in any patent application file (in any form whatsoever) except to perform the work under this contract. The Contractor, in the performance of this contract, will have access to confidential information contained in patent applications or government-furnished information which has not been released or otherwise made available to the public. The Contractor agrees that without prior written approval of the Contracting Officer it shall not:
 - (ii) Use such information for any private purpose.
 - (iii) Submit a patent application to the USPTO or any other entity that is based on such information.
 - (iv) Release such information unless such information has previously been released or otherwise made available to the public by the USPTO or the World Intellectual Property Organization.
- (2) The Contractor agrees that, to the extent it receives or is given access to patent applications, PCT applications, proprietary data, trade secrets, or other confidential or privileged technical, business, or financial information (hereafter referred to as "confidential information") under this contract, it shall treat such confidential information in accordance with any restrictions imposed on such information. Patent application documents and information contained therein, when furnished to the Contractor by the USPTO, shall be handled, at a minimum, in accordance with the provisions regarding confidential information of:

35 U.S.C. § 122
37 CFR § 1.11 and 1.14
35 U.S.C. §§ 181-188
37 CFR part 5

- (3) The Contractor shall obtain from each employee who has access to confidential information under this contract, a written agreement which shall in substance provide that such employee shall not, disclose to others or use for their benefit, confidential information received in connection with the work under this contract. The agreement must also expressly prohibit such employee from voluntarily appearing and giving expert or opinion testimony in any legal proceeding regarding USPTO information, subjects, or activities and provide that the employee shall immediately notify the USPTO if any attempt is made to compel him or her to disclose, or to provide testimony in any form concerning, such information, subjects, or activities. In addition, the agreement shall prohibit employee from making any communication with any Federal agency with respect to any patent application for which he or she performed a search under the contract or any related matter, except as authorized in writing by the USPTO. The agreement shall expressly state that it is entered for the benefit of the USPTO and of the patent applicants whose information is disclosed to the employee, and that it will survive both the termination of the employees work under this contract and the termination or expiration of the contract itself. Furthermore, the Contractor will provide its employees with specific initial and refresher training concerning this conflict of interest clause so as to ensure that they will not use or disclose confidential information generated or acquired in performance of this contract except as provided herein.
- (4) The Offeror shall submit with its proposal a plan for maintaining the confidential information within patent applications. The plan must provide for adequate protection of confidential information during all phases of contract performance and during the period following such performance.

(f) Subcontracts

The Contractor shall include this clause, including this paragraph, but excluding paragraph (d)(4), in consulting agreements and subcontracts of any tier. Consequently, these conflict of interest provisions apply to subcontractors and consultants. The terms “contract”, “Contractor”, and “Contracting Officer” will be appropriately modified to preserve the Government’s rights.

(g) Remedies and Waiver

- (i) Remedies: The Contracting Officer may terminate this contract for convenience, in whole or in part, whenever it deems such termination necessary to avoid a conflict of interest. If the Contractor was aware of a potential conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.
- (ii) Waiver: Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer shall grant such a waiver in writing.

(h) Government Indemnity

The Contractor shall hold the Government harmless and indemnify the Government as to any cost or loss resulting from the unauthorized use or disclosure of patent application information by the Contractor, its employees, subcontractors, agents, or consultants.

H.7 KEY PERSONNEL

- a. The Contractor shall assign to this contract the following key personnel:

<u>Labor Category</u>	<u>Name</u>
Project Manager	_____
Search Approval Official(s)	_____

The Project Manager is defined as the person who is responsible for the management of performance of the contract. The Search Approval Official(s) is the person or persons who approves the submission of the final deliverables to the USPTO.

b. During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within fifteen (15) calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least fifteen (15) days prior to making any permanent substitutions.

c. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within fifteen (15) calendar days after receipt of all required information of the decision on substitutions. The contract will be modified to reflect any approved changes of key personnel.

H.8 NONDISCLOSURE OF PATENT INFORMATION

All patent data furnished by the Government to the Contractor for the necessary performance of the contract shall be and remain the sole property of the Government. The Contractor agrees not to assert any rights, or to establish any claim under the design, patent, trademark, or copyright laws, or to publish or reproduce such matter in whole or in part in any manner or form except as provided under this agreement.

H.9 SECRECY AND USAGE OF PATENT INFORMATION

Work under this contract does not affect the national security. However, patent applications are required by law (35 U.S.C. 122) to be kept in confidence. Information contained in any patent application file(s) is restricted to authorized Contractor personnel on a need-to-access basis.

The Contractor acquires no right or privilege to use or disclose any information contained in any patent application file (in any form whatsoever) except to perform the work under the contract. Further, the Contractor shall not copyright or make any use or disclosure whatsoever of any patent information contained in any application or related copy or data furnished the Contractor by the Government or obtained therefrom except performing the requirements of this contract.

Security requirements of patent application file data maintained in a computer-accessible medium are an extension of the security requirements for the hard copy or the patent application folders. All processing, storage or transmission of patent application file data by means of electronic communications systems is prohibited unless use of such systems is approved by the USPTO.

All personnel having access to patent application files or data or information concerning the same, must take the following at or affirmation, signed in writing:

"I do swear or affirm that I will preserve the applications for patents in secrecy, that I will not divulge any information concerning the same to unauthorized persons while employed in work under this contract or at any time thereafter; and that I take this obligation freely, and without mental reservation or purpose of evasion."

Each employee's signed oath, or affirmation, shall be retained in the Contractor's file, subject to inspection by authorized Government representatives.

Without advance notice, the Government shall have the right to inspect the Contractor's premises, records, and work in process pertaining to the secrecy of patent information.

H.10 HOLD AND SAVE THE GOVERNMENT HARMLESS FROM LIABILITY

The Contractor shall hold and save the Government, its officers, agents, and employees, harmless from liability of any nature or kind, including costs and expenses, for, or on account of infringement of any patent or copyright or any other unauthorized disclosure or use of any confidential secret, or proprietary data, process, product or invention, whether or not patentable, in the performance of this contract, including their disclosure or use by the Government consistent with rights in, or intent of, the contract. Where applicable, this shall include full indemnification of all costs and expenses.

H.11 COMPLIANCE WITH LAWS

The Contractor shall comply with all applicable laws, rules and regulations having the force of law which deal with or relate to performance hereunder or the employment by the Contractor of the employees necessary for such performance. The Contractor shall procure such permits, licenses, and other required authorizations from the United States and from state and local authorities, as may be necessary in connection with beginning or carrying on to completion of the contract work, and shall at all times comply with all United States, State and Local Laws in any way affecting the contract work.

H.12 SUPERVISION OF CONTRACTOR'S EMPLOYEES

(a) Personnel assigned to render services under this contract shall at all times be employees of the Contractor or its subcontractor(s) and under the direction and control of the Contractor. Notwithstanding any other provisions of this contract, the Contractor shall at all times be responsible for the supervision of its employees in the performance of the services required hereunder.

(b) Contractor personnel shall not at any time during the contract period be employees of the U.S. Government.

H.13 WORKLOAD DISTRIBUTION (MULTIPLE AWARDS)

If multiple awards are made within a Technology Field CLIN, work will be equitably distributed among Contractors. The following factors will influence work assignment: Price, Past Performance (i.e. quality, timeliness, etc..) and Capacity to handle additional work.

H.14 DUPLICATION AND DISCLOSURE OF CONFIDENTIAL DATA

Duplication or disclosure of confidential data provided by the USPTO or to which the Contractor will have access as a result of this contract is prohibited. It is understood that throughout performance of the contract the Contractor may have access to confidential data which is the sole property of the USPTO, as well as access to proprietary data which is the sole property of other than the contracting parties. The Contractor hereby agrees to maintain the confidentiality of all such data to which access may be obtained throughout contract performance whether title thereto vests in the USPTO or otherwise. The Contractor hereby agrees not to disclose said data, any interpretations thereof or data derivative therefrom, to unauthorized parties in contravention of these provisions without prior written approval of the CO or the party in which title thereto is wholly vested. Additionally, all application material printed out must be shredded to the point where it is not easily recognized or can be reconstructed. This clause also applies to any subcontractors and/or consultants used by the Contractor.

H.15 NOTICE TO THE GOVERNMENT OF DELAYS

In the event the Contractor encounters difficulty in meeting performance requirements, or when it anticipates difficulty in complying with the contract delivery schedule or date, or whenever the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately notify the Contracting Officer and the COTR, in writing, giving pertinent details, provided, however, that this data shall be informational only in character and that this provision shall not be construed as a waiver by the Government of any delivery schedule or date or of any rights or remedies provided by law or under this contract.

H.16 GOVERNMENT FURNISHED DATA

The Government shall deliver to the Contractor, as may be requested, Government-Furnished Data (GFD) during the performance of this contract. GFD will be delivered to the Contractor as specified in each task order.

Title to GFD shall remain in the Government, and the Contractor shall use the GFD only in connection with this contract.

Upon completion or termination of this contract, the Contractor shall return to the Government all GFD.

H.17 CAR 1352.239-73- SECURITY REQUIREMENTS FOR INFORMATION TECHNOLOGY RESOURCES

(a) This clause is applicable to all contracts that include information technology resources or services in which the Contractor must have physical or electronic access to USPTO's sensitive or classified information, which is contained in systems that directly support the mission of the Agency. For purposes of this clause the term "Sensitive" is defined by the guidance set forth in:

- (1) The *DOC IT Security Program Policy and Minimum Implementation Standards* (<http://www.ossec.doc.gov/cio/itmhwweb/itmhwweb1.html>);
- (2) The Office of Management and Budget (OMB) Circular A-130, Appendix III, *Security of Federal Automated Information Resources*, (<http://csrc.nist.gov/secplcy/a130app3.txt>) which states that there is a "presumption that all [general support systems] contain some sensitive information."; and
- (3) The *Computer Security Act of 1987* (P.L. 100-235) (<http://www.epic.org/crypto/csa/csa.html>), including the following definition of the term sensitive information "... any information, the loss, misuse, or unauthorized access, to or modification of which could adversely affect the national interest or the, conduct of federal programs, or the privacy to which individuals are entitled under section 552 a of title 5, Unites States Code (The Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy."

For purposes of this clause, the term "Classified" is defined by the guidance set forth in:

- (1) The *DOC IT Security Program Policy and Minimum Implementation Standards, Section 3.3.1.4* (<http://www.ossec.doc.gov/cio/itmhwweb/itmhwweb1.html>).
- (2) The *DOC Security Manual, Chapter 18* (<http://www.ossec.doc.gov/osy/>).
- (3) Executive Order 12958, as amended, Classified National Security Information. Classified or national security information is information that has been specifically authorized to be protected from unauthorized disclosure in the interest of national defense or foreign policy under an Executive Order or Act of Congress.

Information technology resources include, but are not limited to, hardware, application software, system software, and information (data). Information technology services include, but are not limited to, the management, operation (including input, processing, transmission, and output), maintenance, programming, and system administration of computer systems, networks, and telecommunications systems. The Contractor shall be responsible for implementing sufficient Information Technology security, to reasonably prevent the compromise of USPTO IT resources for all of the contractor's systems that are interconnected with a USPTO network or USPTO systems that are operated by the Contractor.

- (b) All Contractor personnel performing under this contract and Contractor equipment used to process or store USPTO data, or to connect to USPTO networks, must comply with the requirements contained in the USPTO IT Security Handbook.
- (c) For all Contractor-owned systems for which performance of the contract requires interconnection with a USPTO network or that USPTO data be stored or processed on them, the Contractor Shall:
 - (1) Provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract. The plan shall describe those parts of the contract to which this clause applies. The Contractor's IT Security Plan shall comply with federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 *et seq.*) and the Federal Information Security Management Act of 2002, Pub. L. No.107-347, 116 Stat. 2899, 2946-2961 (2002); Pub. L. No. 107-296, 116 Stat. 2135, 2259-2273 (2002). 38 WEEKLY COMP. PRES. DOC. 51, 2174 (Dec. 23, 2002) (providing statement by President George W. Bush regarding Federal Information Security Management Act of 2002). The plan shall meet IT security requirements in accordance with Federal and USPTO policies and procedures that include, but are not limited to:

- (a) OMB Circular A-130, *Management of Federal Information Resources*, Appendix III, *Security of Federal Automated Information Resources* (<http://csrc.nist.gov/secplcy/a130app3.txt>);
- (b) National Institute of Standards and Technology Special Publication 800-18, *Guide for Developing Security Plans for Information Technology Systems* (<http://csrc.nist.gov/publications/nistpubs/800-18/Planguide.PDF>) ; and
- (c) DOC Procedures and Guidelines in the *Information Technology Management Handbook* (<http://www.osec.doc.gov/cio/itmhweb/itmhweb1.html>). .
- (d) National Industrial Security Program Operating Manual (NISPOM) for classified systems (<http://www.dss.mil/isec/nispom.htm>); and

(2) Within 14 days after contract award, the contractor shall submit for USPTO approval a System Certification and Accreditation package, including the IT Security Plan and a system certification test plan, as outlined in USPTO Certification and Accreditation Technical Standard and Guideline. The Certification and Accreditation Package must be consistent with and provide further detail for the security approach contained in the offeror's proposal or sealed bid that resulted in the award of this contract and in compliance with the requirements stated in this clause. The Certification and Accreditation Package, as approved by the Contracting Officer, in consultation with the USPTO IT Security Officer, shall be incorporated as part of the contract. USPTO will use the incorporated IT Security Plan as the basis for certification and accreditation of the contractor system that will process USPTO data or connect to USPTO networks. Failure to submit and receive approval of the Certification and Accreditation Package, as outlined above may result in termination of the contract.

(d) The Contractor shall incorporate this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

H.18 CAR 1352.239-74 SECURITY PROCESSING REQUIREMENTS FOR CONTRACTORS/SUBCONTRACTOR PERSONNEL FOR ACCESSING USPTO AUTOMATED INFORMATION SYSTEMS (DEVIATION)

(a) Contractor personnel requiring any access to AISs operated by the Contractor for USPTO or interconnected to a USPTO network to perform contract services shall be screened at an appropriate level in accordance with Commerce Acquisition Manual 1337.70, *Security Processing Requirements for Service Contracts*. USPTO shall provide screening using standard personnel screening forms, which the Contractor shall submit to the USPTO Contracting Officer's Technical Representative (COTR) based on the following guidance:

Contract personnel performing work designated Contract High Risk and personnel performing work designated Contract Moderate Risk in the information technology (IT) occupations and those with "global access" to an automated information AIS require a favorable pre-employment check before the start of work on the contract, regardless of the expected duration of the contract. After a favorable pre-employment check has been obtained, the Background Investigation (BI) for Contract High Risk and the Minimum Background Investigation (MBI) for Contract IT Moderate Risk positions must be initiated within three working days of the start of work.

Contract personnel performing work designated Contract Moderate Risk who are not performing IT-related contract work do not require a favorable pre-employment check prior to their employment; however, the Minimum Background Investigation (MBI) must be initiated within three working days of the subject's start of work on the contract, regardless of the expected duration of the contract.

Contract personnel performing work designated Contract Low Risk will require a National Agency Check and Inquiries (NACI) upon the subject's start of work on the contract if the expected duration of the contract exceeds 365 calendar days. The NACI must be initiated within three working days of the subject's start of work on the contract.

Contract personnel performing work designated Contract Low Risk will require a Special Agreement Check (SAC) upon the subject's start of work on the contract if the expected duration of

the contract (including options) exceeds 180 calendar days but is less than 365 calendar days. The SAC must be initiated within three working days of the subject's start of work on the contract.

Contract personnel performing work on contracts requiring access to classified information must undergo investigative processing according to the Department of Defense National Industrial Security Program Operating Manual (NISPOM), (<http://www.dss.mil/isec/nispom.htm>) and be granted eligibility for access to classified information prior to beginning work on the contract. The security forms may be obtained from USPTO Office of Security. At the option of the USPTO, interim access to USPTO AISs may be granted pending favorable completion of a pre-employment check. Final access may be granted only on completion of an appropriate investigation based upon the risk level assigned to the contract.

(b) Within 5 days of contract award, the Contractor shall certify in writing to the COTR that its employees, in performance of the contract, have completed annual IT security awareness training in USPTO IT Security policies, procedures, computer ethics, and best practices, in accordance with the USPTO Training Policy. The COTR will inform the Contractor of any other available USPTO training resources.

(c) The Contractor shall afford USPTO, including the Office of Inspector General, access to the Contractor's and subcontractor's facilities, installations, operations, documentation, databases, and personnel used in performance of the contract. Access shall be provided to the extent required to carry out a program of IT inspection, investigation, and audit to safeguard against threats and hazards to the integrity, availability, and confidentiality of USPTO data or to the function of computer AISs operated on behalf of USPTO, and to preserve evidence of computer crime.

(d) The Contractor shall incorporate this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

(NOTE: Low Risk contracts whose duration is less than 180 days do not ordinarily require security processing. However, even though the contract is short in duration, based on any unusual circumstances that may exist, Special Agreement Checks (SACs) may be requested, at the discretion of the Contracting Officer's Technical Representative (COTR) and/or the USPTO Security Office.)

SECTION I – CONTRACT CLAUSES

I.1 52.252-01 CLAUSES INCORPORATED BY REFERENCE (JUN 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a solicitation provision may be accessed electronically at this address: <http://www.arnet.gov/far/>.

Clause	Title	Date
52.202-01	Definitions	July 2004
52.203-03	Gratuities	April 1984
52.203-05	Covenant Against Contingent Fees	April 1984
52.203-07	Anti-Kickback Procedures	July 1995
52.203-08	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity	January 1997
52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity	January 1997
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	April 1991
52.203-12	Limitation On Payments To Influence Certain Federal Transactions	June 2003
52.204-07	Central Contractor Registration	October 2003
52.204-04	Printed or Copied Double-Sided on Recycled Paper.	August 2000
52.209-06	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	July 1995
52.215-02	Audit and Records--Negotiation	June 1999
52.215-08	Order of Precedence--Uniform Contract Format	October 1997
52.215-14	Integrity of Unit Prices.	October 1997
52.216-22	Indefinite Quantity	October 1995
52.217-08	Option to Extend Services	November 1999
52.217-09	Option To Extend The Term Of The Contract	March 2000
52.219-08	Utilization of Small Business Concerns	May 2004
52.219-09	Small Business Subcontracting Plan	January 2002
52.222-21	Prohibition of Segregated Facilities	February 1999
52.222-26	Equal Opportunity	April 2002
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	December 2001
52.222-36	Affirmative Action For Workers with Disabilities	June 1998
52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	December 2001
52.223-06	Drug Free Workplace	May 2001
52.223-14	Toxic Chemical Release Reporting	August 2003
52.225-13	Restrictions on Certain Foreign Purchases	December 2003
52.227-02	Notice and Assistance Regarding Patent and Copyright Infringement.	August 1996
52.227-03	Patent Indemnity	April 1984
52.227-14	Rights in Data- General	June 1987
52.232-1	Payments	April 1984
52.232-17	Interest	June 1996
52.232-23	Assignment Of Claims	January 1986
52.232-25	Prompt Payment	October 2003
52.232-33	Payment by Electronic Funds Transfer--Central Contractor Registration	October 2003
52.233-01	Disputes	July 2002
52.242-13	Bankruptcy	July 1995
52.243-01	Changes—Fixed price (Alternate 1)	August 1987
52.245-04	Government Furnished Property	June 2003
52.249-02	Termination For Convenience Of The Government (Fixed-Price)	May 2004
52.249-08	Termination For Default (Fixed Price Supply or Service)	April 1984

52.249-14	Excusable Delays	April 1984
52.253-01	Computer Generated Forms	January 1991

I.2 52.216-18 ORDERING OCTOBER 1995

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued during the performance period of the contract.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

I.3 52.216-19 ORDER LIMITATIONS OCTOBER 1995

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount less than the minimum stated per CLIN (See Section B) then the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor:

- (1) Any order for a single item in excess of the maximum stated per CLIN (See Section B);
- (2) Any order for a combination of items in excess of total award value; or
- (3) A series of orders from the same ordering office within 1 day that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

I.4 52.244-06 SUBCONTRACTS FOR COMMERCIAL ITEMS**DECEMBER 2004**

(a) Definitions. As used in this clause-

"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

- (i) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
- (ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).
- (iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212(a));
- (iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201). Flow down as required in accordance with paragraph (g) of FAR clause 52.222-39).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631) (flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

SECTION J - LIST OF ATTACHMENTS

J.1 List of Attachments

- Attachment 1: PCT Request (PCT/RO/101 form)
- Attachment 2: Declaration of Non-Establishment of International Search Report (PCT/ISA/203 form, hereafter “Form 203” and instructions for preparing Form 203
- Attachment 3: Invitation to Pay Additional Fees (PCT/ISA/206 form, hereafter “Form 206”) and instructions for preparing Form 206
- Attachment 4: International Search Report (PCT/ISA/210 form, hereafter “Form 210”) and instructions for preparing form 210
- Attachment 5: Notification of Transmittal of the International Search Report and the Written Opinion of the International Searching Authority, or the Declaration (PCT/ISA/220 form, hereafter “Form 220”) and instructions for preparing Form 220
- Attachment 6: Written Opinion of the International Searching Authority (PCT/ISA/237 form, hereafter “Form 237”) and instructions for preparing Form 237
- Attachment 7: PCT INTERNATIONAL SEARCH AND PRELIMINARY EXAMINATION GUIDELINES
<http://www.wipo.int/pct/en/texts/pdf/ispe.pdf>
- Attachment 8: USPTO Classification Schedule
<http://www.uspto.gov/go/classification/>
- Attachment 9: Technical Field Breakdown
- Attachment 10: Workflow Diagram
- Attachment 11: Sample Search Guidelines (Samples 1-10)
- Attachment 12: Recommended Computer Specifications
- Attachment 13: Past Performance Questionnaire

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

K.1 52.204–8 Annual Representations and Certifications.

ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2005)

(a)(1) If the clause at 52.204–7, Central Contractor Registration, is included in this solicitation, paragraph (b) of this provision applies.

(2) If the clause at 52.204–7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (b) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (b) applies.

☐ (ii) Paragraph (b) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(b) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date].

These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date
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Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

(End of Provision)

SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

L.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (JUN 1988)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The Offeror is cautioned that the listed provisions may include blocks that must be completed by the Offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the Offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address: <http://www.arnet.gov/far/>

Clause	Title	Date
52.204-6	Data Universal Numbering System (DUNS) Number	October 2003
52.214-34	Submission Of Offers In The English Language	April 1991
52.214-35	Submission Of Offers In U.S. Currency	April 1991
52.215-01	Instructions to Offerors—Competitive Acquisition	February 2000
52.216-27	Single or Multiple Awards	October 1995
52.232-38	Submission of Electronic Funds Transfer Information with Offer	May 1999

L.2 INVITE AND RECEIVE OFFEROR SUBMISSIONS

Offerors who wish to respond to the USPTO's needs as outlined in the RFP shall submit all documents as defined in Section L.3 (Proposal Requirements). Offerors shall submit statutorily required Certifications and Representations for review by the USPTO (See Section K). Offerors shall be responsible for accessing the web page <http://www.uspto.gov/web/offices/ac/comp/proc/pctsearch/pctsearchhom.html> for any changes to this RFP. All changes, questions, and answers shall be posted to this location.

All incomplete and/or non-compliant proposals may be removed from consideration and the Offeror notified. Offerors who fail to submit the requested information as detailed in Section L of the RFP by the proposal due date will not be considered for further evaluation.

L.3 PROPOSAL REQUIREMENTS

Offerors are required to submit an original and four (4) copies of the following in response to the solicitation:

- | | |
|-----------|--|
| Volume I | <ul style="list-style-type: none"> A. Quality Assurance Plan B. Management Plan C. Workload Capacity Plan D. Search Methodology Plan E. Key Personnel Resumes F. Past Performance G. Small Business Subcontracting Plan or Teaming Plan (if applicable) |
| Volume II | <ul style="list-style-type: none"> F. Price Proposal G. A completed Section K (Certifications and Representations) |

L.3.1 QUALITY ASSURANCE PLAN (FACTOR A)

The Quality Assurance Plan shall not exceed twenty (20) pages in total. The Government and the Contractor will agree to a Quality Assurance Surveillance Plan (QASP) at the time of contract award.

THE PROPOSED PROGRAM IS SUBJECT TO GOVERNMENT APPROVAL. This program shall, at a minimum, address the following.

- (1) Sampling and measuring for every CLIN performed or delivered under this contract. This system will ensure attainment of the Acceptable Performance Level in the Statement of Work for each CLIN. This system must be agreeable to both the Government and Contractor and must use one of the following methods: 100% inspection, Customer Feedback, Random Monitoring, or Periodic Sampling. The plan must detail the procedures to be utilized to insure inspection will be taken from all phases of workflow.
- (2) Where and by whom daily contractor process controls and inspections will be performed. Contractor shall state the number of people that shall be permanently assigned to this program and their assignments.
- (3) Appointment of an official who shall be responsible for the operation of the quality control system/department and for investigating and ascertaining the causes of deficiencies.
- (4) How and when daily inspection and tests or reviews will be held to check for: 1- errors and 2- timeliness.
- (5) Describe how verification will be accomplished to insure that all orders have been processed in full.
- (6) Describe the safeguarding and protection of patent information.

Failure to maintain the Quality Control Program in accordance with the plan submitted and approved by the Government may result in the Government's termination of the contract for default.

All requested quality control samples (for use by Government representatives) must be supplied at no additional cost to the Government.

L.3.2 MANAGEMENT PLAN (FACTOR B)

The Management Plan shall not exceed fifteen (20) pages in total (inclusive of all attachments). The management portion of the proposal must include, at a minimum:

1. Understanding of the USPTO's requirements;
2. Specific management plan for the contract;
3. Resources and expertise necessary to provide support for the requirement.
4. Requirements of paragraph H.6(c) and H.6(e)(4)

L.3.3 WORKLOAD CAPACITY (FACTOR C)

The Workload Capacity Plan shall not exceed four (4) pages in total. The workload capacity portion of the proposal must demonstrate at a minimum:

1. The Offeror's ability to perform at least an entire Technical Field CLIN (and associated SLIN) or at least 100 applications per month in each Technical CLIN bid on;
2. The maximum workload that the offeror is capable of performing;
3. Resources and expertise necessary to successfully perform the requirements of the contract.

L.3.4 SEARCHING METHODOLOGY PLAN (FACTOR D)

The Searching Methodology Plan shall not exceed eight (8) pages. The searching methodology portion of the proposal must include, at a minimum:

1. Understanding and knowledge of the search tools required to perform the requirements, i.e. various databases, etc.;
2. Anticipated search techniques to be used to perform the requirements;
3. Access to the various search tools needed to perform the requirements;
4. Technical expertise in using the various search tools;
5. Specific plan on how the searches will be conducted.

L.3.5 KEY PERSONNEL RESUMES (FACTOR E)

Offeror shall provide key personnel resumes (each key personnel resume shall not exceed two (2) pages). Resumes should clearly communicate the skills, knowledge, and aptitudes of the individual. An employment history must be included that covers at least the most current 5 years of employment. For the Search Approval Official, all previous USPTO employment must be included.

L.3.6 PAST PERFORMANCE STATEMENT (FACTOR F)

The Past Performance Statement shall not exceed seven (7) pages in total inclusive of all Offeror references. This description must include, at a minimum:

1) Experience in managing similar size requirements and performing comparable services;

This section shall demonstrate the Offeror's experience and ability to provide skilled personnel and ability to manage requirements, which are the same, or similar to those addressed in this RFP.

2) List of current or previous contracts; (excluded from seven (7) page limitation)

The Offeror shall provide current points of contact (Contracting Officer and COTR), point of contact's telephone number, fax number, email addresses (if available), contract title (if applicable), contract number, contract type, period of performance, dollar amount, and description of the work performed for at least three (3) Government and/or commercial contracts. The Offeror should provide information on any problems encountered on the identified contracts and the corrective action taken.

3. A form is provided as Attachment 13 for the offeror to give to their references. This form should be completed by the reference and submitted via fax not later than the RFP submission due date to the following:

FAX 571-273-6567

ATTN: Jason Taylor
U.S. Patent and Trademark Office
Office of Procurement
Mail Stop 6
P.O. Box 1450
Voice (571) 272-6567

Any information found to be unreliable may result in a negative rating to the offeror. If a prime contractor is not able to provide three (3) references, the offeror shall certify that the references provided are all of the references available as of the date of submission. False information provided concerning references or offeror certifications will result in the USPTO not considering an offeror for award of any resulting contracts. If an offeror cannot provide requisite number of references, a certification so stating is required.

Notes:

* The USPTO reserves the right to determine which contracts submitted by the Offeror are relevant to the requirements and to utilize only those references.

* In the conduct of its past performance evaluation of Offerors, the USPTO may use a variety of information sources in addition to information provided by the Offeror. These sources may include, but are not limited to, technical reports, commercial or any available published information, and information derived from present or past Government or commercial customers of the Offeror. The USPTO may use past performance information obtained from sources other than those identified by the Offeror. Those Offerors who have no relevant past performance history will not be evaluated either favorably or unfavorably on past performance.

* The USPTO reserves the right to either contact the references provided or to rely on the reference submissions. By providing the USPTO the above contacts, the Offeror is certifying that it has contacted the referenced individuals and given permission for the USPTO to contact said individuals. In the event that the USPTO needs to

contact the reference for further information and the reference does not respond within a reasonable time frame, the past performance reference may not be considered.

L.3.7 SMALL BUSINESS SUBCONTRACTING PLAN PROPOSAL OR TEAMING PLAN (FACTOR G)

If the Offeror is proposing to use a teaming agreement (to include the Teaming Plan described in Clause L.3.7.2), the Offeror must include signed copies of the teaming agreement. The agreement should specify terms and conditions as they relate to contract performance.

Offerors shall submit only one of these documents depending on whether they are large businesses or small businesses proposing as the prime contractor.

PTO's preferred order of subcontractor participation is listed below:

- A. Veteran-owned small businesses (including service disabled veteran-owned small businesses)
- B. HUBZone small business concerns
- C. Women-owned small business concerns
- D. Small disadvantaged businesses
- E. Small businesses
- F. Large businesses

L.3.7.1 - Small Business Subcontracting Plan (applies only to large businesses proposing as the prime contractor).

The large business offeror (proposing as the prime contractor) must submit a Small Business Subcontracting Plan with their proposal, in accordance with and using the format identified in FAR 52.219-9, Small Business Subcontracting.

The USPTO has set a minimum (overall) goal of 20% (this is an agency-level goal, not specific to this procurement) participation by veteran-owned small businesses (including service disabled veteran-owned small businesses), HUBZone small business concerns, women-owned small business concerns, small disadvantaged businesses, and small businesses. The offeror is encouraged in the proposed use of veteran-owned small businesses (including service disabled veteran-owned small businesses), HUBZone small business concerns, women-owned small business, small disadvantaged businesses, and small businesses concerns to the maximum extent possible. State current and/or proposed subcontracting/teaming arrangements with these concerns, as set forth under Public Law 95-507. For any such teaming arrangements, the offeror must identify:

- A. Offeror's procedures for implementing provisions of Public Law 95-507
- B. Name, position with the company, and telephone number of the Small and Disadvantaged Business Utilization (SDBU) Liaison officer
- C. Recent past history (within last 5 years) of any subcontract/teaming arrangements with small business concerns where work was performed in areas identical or similar to those specified in Section C of this solicitation. Statement of past history should include:
 - 1. Subcontract number
 - 2. Dollar amount of subcontract, type of work performed by small business concerns
 - 3. Dates of award and completion/termination.
- D. Recent past history (the 5 latest contracts in excess of \$1,000,000) of the small business utilization goal on those contracts and the actual percentage attained on those contracts.

L.3.7.2 - Teaming Plan (applies only to small businesses proposing as the prime contractor and intending to subcontract some of the requirement).

The small business offeror (proposing as the prime contractor) must submit a Teaming Plan if it intends to subcontract. There is no required format for this plan. For each subcontractor of the team, the offeror must identify:

- A. Name of the subcontractor.
- B. Area of expertise of the subcontractor.
- C. Proposed percentage of contract work to be given to the subcontractor.
- D. Identify the subcontractor as a large business or a small business. If a small business, identify the category of small business (i.e., veteran-owned small business (including service disabled veteran-owned small businesses), HUBZone small business concerns, women-owned small business concerns, small disadvantaged business, and small businesses.)

L.3.8 PRICE (FACTOR H)

The USPTO anticipates awarding multiple IDIQ contracts. Offerors shall provide unit pricing for each CLIN listed in Section B.3 through B.5 in which the offeror is interested and submit this with their proposal. Section B.3 through B.5 shall serve as a template for the price submission. As set forth in Section B..2., each CLIN offer must also include the associated sub-line item. Multiple CLINs may be bid on and multiple awards may be made within a CLIN.

L.4 SUBMISSION FORMAT REQUIREMENTS

Offerors shall provide **one (1) original and four (4) copies** of their proposal not later than 2:00 p.m. local time Friday, June 10, 2005, in the U.S. Patent and Trademark Office, Office of Procurement to the attention of Jason Taylor. All documents shall be delivered as a single package. Depending on the mode of delivery, Offeror's response should be addressed as follows:

U.S. Postal Service

U.S. Patent and Trademark Office
Office of Procurement
Mail Stop 6
PO Box 1450
Alexandria, VA 22313-1450
Attn: Jason Taylor

Handcarried, Courier, or Non-USPS Mail Service

U.S. Patent and Trademark Office
Office of Procurement
600 Dulany Street, Madison East
Room 7A01
Alexandria, VA 22313
Attn: Jason Taylor (571-272-6567)

The documents shall be submitted in paper form (one original and four copies) and in electronic MSWord format on CD-ROM (one copy), and formatted for 8-1/2" by 11" white, untextured paper, single-spaced. Margins shall be one (1) inch on all sides. The type for all documents submitted (including charts and graphs) shall not exceed twelve (12) characters per linear inch or be smaller than twelve (12) point, and shall not exceed six (6) lines per vertical inch.

Proposals that do not include the data necessary for a thorough evaluation may be determined to be unacceptable. The USPTO is not obligated to request additional information from any Offeror in order to make determination of technical acceptability. Facsimile proposals and modifications of proposals are not permitted and will be disregarded if received.

Proposals shall present an Offeror's understanding of the scope of the procurement and an overall approach in providing the required products. General statements such as the Offeror understands, the Offeror can or will comply with the requirements, standard procedures will be used, well known techniques will be used, or that paraphrase the Statement of Work or Technical References in whole or in part will not satisfy the requirements concerning the content of a technical proposal and may serve as the basis for rejecting that Offeror's proposal.

Failure to submit proposals in compliance with these minimum requirements may result in a determination that the proposal is non-compliant, which may eliminate the proposal from further consideration.

When proposals are hand-carried or sent by courier service, the Offeror assumes the full responsibility for ensuring that the proposals are received by the date and time specified above.

***The rights of ingress and egress to and from USPTO facilities for Contractor personnel is controlled by USPTO Security. Therefore, Offerors are responsible for allowing sufficient time to be processed through**

security to ensure that its proposals are received by USPTO's Office of Procurement by the time and date specified above.

L.5 QUESTIONS AND RESPONSES

All questions pertaining to the RFP shall be submitted via e-mail to jason.taylor@uspto.gov. Questions must identify the author and company name. All questions and responses pertaining to the RFP will be published and made available at <http://www.uspto.gov/web/offices/ac/comp/proc/pctsearch/pctsearchhom.html>. The identity of the author and associated company name of the question will not be published. All questions regarding the RFP are due by Friday, May 15, 2005. Receipt of late questions will **not** result in an extension to the proposal due date, nor can the USPTO guarantee that a response will be provided before the proposal due date.

L.6 SET-ASIDE INFORMATION

This solicitation is NOT set-aside for small business concerns.

L.7 NAICS CODE AND SMALL BUSINESS SIZE STANDARD

The North American Industry Classification System (NAICS) code for this acquisition is 541990. The small business size standard is \$6.0 Million.

L.8 INCUMBENT CONTRACTOR

USPTO employees currently perform this requirement. No contractor has ever performed these duties.

L.9 52.233-2 SERVICE OF PROTESTS (AUGUST 1996) (DEVIATION)

- A. Protests, as defined in Section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgments of receipt from:

United States Patent and Trademark Office	Office Of the General Counsel
OFFICE OF PROCUREMENT	USPTO
Mail Stop 6	Mail Stop 8
P.O. Box 1450	P.O. Box 1450
Alexandria, VA 22313-1450	Alexandria, VA 22313-1450
Jason E. Taylor	FAX: 571-273-0099
FAX: 571-273-6567	

- B. The copies of any protest shall be received in the offices designated above within one day of filing a protest with the GAO.

L.10 AGENCY-LEVEL PROTEST PROCEDURES

AGENCY-LEVEL PROTEST PROCEDURES LEVEL ABOVE THE CONTRACTING OFFICER (DEC 1996)

1. PURPOSE: To implement the requirements of Executive Order No. 12979 and Federal Acquisition Regulation (FAR 33.103). On October 25, 1995, President Clinton signed Executive Order No. 12979, which directs heads of executive agencies to develop administrative procedures for resolving protests to awards of procurement contracts within their agencies at a level above the Contracting Officer. Authority to administer procurement-related directives has been delegated within the Department of Commerce through the Chief Financial Officer and Assistant Secretary for Administration to the Director for Acquisition Management (Procurement Executive). The Department's goal is to encourage protesters to resolve their protests at the agency level, help build confidence in the Government's acquisition system, and reduce protests to the General Accounting Office and other external fora. Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the Contracting Officer level through open and frank discussions. If concerns cannot be resolved, protesters may use these procedures when a resolution is requested from the agency at a level above the Contracting Officer.

II. DEFINITIONS:

An agency protest is one that may be filed with either the contracting officer or the protest decision authority but not both. When a protester decides to file a protest at the agency level with the protest decision authority, the guidelines set forth in these established agency level protest procedures above the contracting officer apply. These procedures are in addition to the existing protest procedures contained in the Federal Acquisition Regulation (FAR) Part 33.102.

A day is a calendar day. In computing a period of time for the purpose of these procedures, the day from which the period begins to run is not counted. When the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, when the Washington, DC offices of the Department of Commerce are closed for all or part of the last day, the period extends to the next day on which the Department is open.

III. PROCEDURES:

a. Protesters using these procedures may protest to the protest decision authority who will make the final decision for the USPTAO.

Protests shall be addressed to:

Ms. Jo-Anne Barnard
Chief Financial Officer and Chief Administrative Officer
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

The outside of the envelope or beginning of the FAX transmission must be marked "Agency-level Protest". The protester shall also provide a copy of the protest within 1 day to the responsible contracting officer and a copy to the addressee indicated below:

Office of the General Counsel
U.S. Patent & Trademark Office
Mail Stop 8
P.O. Box 1450
Alexandria, VA 22313-1450
(FAX Number 571-273-0099)

b. Election of forum: While a protest is pending at the agency level with the protest decision authority, the protester agrees not to protest to the General Accounting Office (GAO) or any other external forums. If the protester has already filed with the GAO or other external forums, the procedures described here may not be used.

1. Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. In cases other than those covered in the preceding two sentences, protests shall be filed not later than 10 days after the basis of the protest is known or should have been known, whichever is earlier.

2. To be filed on a given day, protests must be received by 4:30 PM current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is provided.

3. To be complete, protests must contain the following information:

- (i) the protester's name, address, telephone number, and fax number
- (ii) the solicitation or contract number, name of contracting office and the contracting officer
- (iii) a detailed statement of all factual and legal grounds for protests, and an explanation of how the protester was prejudiced
- (iv) copies of relevant documents supporting protester's statement
- (v) a request for ruling by the agency

- (vi) Statement as to form of relief requested
- (vii) all information establishing that the protester is an interested party for the purpose of filing a protest
- (viii) all information establishing the timeliness of the protest

All protests must be signed by an authorized representative of the protester. Within 14 days after the protest is filed, the Contracting Officer will prepare an administrative report that responds to the issues raised by the protester and addresses any other issues, which, even if not raised by the protester, have been identified by agency officials as being relevant to the fairness of the procurement process. For good cause shown, the protest decision authority may grant an extension of time for filing the administrative report and for issuing the written decision. When an extension is granted, the protest decision authority will notify the protester and all interested parties within 1 day of the decision to grant the extension. Unless an extension is granted, the protest decision authority will issue a decision within 35 days of the protest. The protest decision authority's final decision will be binding on the USPTO and not subject to further appeals. The protest decision authority shall send a written ruling and a summary of the reasons supporting the ruling to the protester by certified mail, return receipt requested with information copies to the applicable contracting office. Effect of protest on award and performance:

When a protest is filed prior to award, a contract may not be awarded unless authorized by the Head of the Contracting Activity (HCA) based on a written finding that:

- (i) The supplies or services are urgently required,
- (ii) delivery or performance would be unduly delayed by failure to make the award promptly, or
- (iii) a prompt award will be in the best interest of the Government.

When a protest is filed within 10 days after contract award or 5 days after a debriefing date was offered to the protester under a timely debriefing request in accordance with FAR 15.1004, whichever is later, the Contracting Officer shall immediately suspend performance pending the resolution of the protest within the agency, including any review by an independent higher official, unless continued performance is justified. The HCA may authorize contract performance, notwithstanding the protest, based on a written finding that:

- (i) contract performance would be in the best interest of the United States, or (ii) urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision.

IV. REMEDIES:

The protest decision authority may grant one or more of the following remedies:

- (1) terminate the contract, (2) re -compete the requirement, (3) issue a new solicitation,
- (4) refrain from exercising options under the contract, (5) award a contract consistent with statutes and regulations,
- (6) amend the solicitation provisions which gave rise to the protest and continue with the procurement, (7) such other remedies as the decision-maker may determine are necessary to correct a defect.

L.11 52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)

(a) The use in the solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.

(b) The use in the solicitation or contract of any Commerce Acquisition Regulation provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

L.12 PROHIBITION ON MULTIPLE PROPOSALS

An Offeror shall submit a maximum of one (1) fully compliant proposal in response to the solicitation. If an Offeror submits more than one proposal, all proposals will be returned without evaluation since the USPTO would have no basis upon which to determine which of the proposals the Offeror desired to have evaluated.

L.13 EVALUATION OF PROPOSALS

The USPTO will evaluate proposals and make an award in accordance with the evaluation criteria set forth in Section M of the RFP.

L.14 NEWS RELEASES

Offerors shall make no news releases pertaining to the solicitation or subsequent contract award without prior agency approvals and then only in coordination with the Contracting Officer.

L.15 INCURRING COSTS

The USPTO shall not be obligated to pay any cost incurred by the Offeror in the preparation and submission of a proposal in response to the solicitation. The Offeror is advised that the Contracting Officer is the only person who can legally obligate the USPTO for the expenditure of public funds in connection with this procurement.

L.16 AMENDMENTS TO PROPOSALS

Amendments to proposals shall be submitted prior to the solicitation closing date as a complete revised proposal and labeled "Revised Proposal." Change pages will not be accepted.

L.17 PERIOD FOR ACCEPTANCE OF OFFERS

In compliance with the solicitation, the Offeror agrees, if this offer is accepted within 160 calendar days from the date specified in the solicitation for receipt of proposals, to furnish any or all items upon which prices are bid.

L.18 SUMMARY

Offerors shall be responsible for accessing the web page, the Current Patent and Trademark Office Acquisition Projects page for any changes to the solicitation. All changes will be posted at this location. Offerors who fail to submit the requested information as detailed in Section L of the RFP by the due date will not be considered for further evaluation.

In summary, Offerors are required to submit the following in response to the RFP:

- A. Quality Assurance Plan (no more than 25 pages)
- B. Management Plan (no more than 20 pages total)
- C. Workload Capacity Plan (no more than 4 pages total)
- D. Search Methodology Plan (no more than 8 pages total)
- E. Key Personnel Resumes (no more than 2 pages each)
- F. Past Performance Statement (no more than 7 pages total)
- G. Subcontracting/Teaming Plan Teaming Agreement(s) (if applicable)
- H. Price (each year shall be no more than 5 pages)
- I. Certifications and Representations (Section K)

SECTION M – EVALUATION FACTORS FOR AWARD

M.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (Feb 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The Offeror is cautioned that the listed provisions may include blocks that must be completed by the Offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the Offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address: <http://www.arnet.gov/far>

Clause	Title	Date
52.217-5	Evaluation of Options	July 1990
52.232-15	Progress Payments Not Included	Apr 1984

M.2 MULTIPLE AWARDS

The USPTO may make multiple awards under this solicitation. The USPTO may make award by Contract Line Item (CLIN). The USPTO reserves the right to make a single award.

M.3 EVALUATION OF OPTIONS

The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the base period. Evaluation of options will not obligate the Government to exercise the options.

M.4 UNBALANCED OFFERS

The USPTO reserves the right to reject an offer if it is materially unbalanced as to prices, and it is determined that award of such an offer would not result in the lowest overall price to the USPTO, or may otherwise be improper. An offer is unbalanced when it is based on prices significantly less than the cost for some items and prices, which are significantly overstated for other items.

M.5 BASIS OF CONTRACT AWARD

The basis for award of a contract as a result of the RFP will be an integrated assessment by the USPTO based on the evaluation factors described below. Award will not be automatically determined by numerical calculation or formula.

Award of any contract will be made to the responsive, responsible Offeror(s) whose proposal, including options, contains the combination of quality, management, search methodology, capacity, past performance and price factors offering the best overall value to the USPTO. This will be determined by comparing differences in the value of non-price features with differences in price to the USPTO. USPTO shall determine what tradeoff among these factors promises the greatest value to the USPTO.

To be eligible for source selection and contract award, the Offeror shall meet the following conditions:

- Determined to be responsible according to the standards of FAR Subpart 9.1
- Complies with all applicable laws and regulations and agrees to terms and conditions set forth in the solicitation
- Proposal is prepared according to instructions set forth in the solicitation and demonstrates the Offeror's capability to perform the scope of work required

- Meets all mandatory requirements
- Provides the best overall value to the USPTO as represented by a combination of non-price and price factors

M.6 AWARD WITHOUT DISCUSSIONS

In accordance with FAR 52.215-1, the Government intends to evaluate proposals and award a contract (or contracts) without discussions with Offerors (except clarifications as described in FAR 15.306(a)). Therefore, the Offeror's initial proposal should contain the Offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

M.7 EVALUATION PROCEDURES

The USPTO will use the evaluation process described in the following paragraphs for proposals received in response to the USPTO PCT Search RFP. The USPTO will evaluate and make award based upon the evaluation criteria provided below:

- A. Quality Assurance Plan
- B. Management Plan
- C. Workload Capacity Plan
- D. Searching Methodology Plan
- E. Key Personnel Resume
- F. Past Performance Statement
- G. Small Business Subcontracting Plan or Teaming Plan (if applicable)
- H. Price Proposal

A. Quality Assurance Plan

The USPTO will assess the offeror's ability to provide and manage a quality assurance plan that will ensure performance of all CLINs at or above the stated Acceptable Quality Levels. The evaluation will consider the relevance, credibility, responsiveness, and completeness of performance and services offered.

B. Management Plan

The USPTO will assess the Offeror's ability to provide and manage the full range of program management and technical activities necessary to perform the contract successfully. The evaluation will consider the relevance, credibility, responsiveness, and completeness of performance and services offered. The USPTO will assess the offeror's understanding of the USPTO requirement, viability of the planned approach (including approach to compliance with the requirements of paragraph H.6) and physical and human resources.

C. Workload Capacity Plan

The USPTO will evaluate on a pass/fail basis, the offeror's ability to perform either the entire technical field CLIN (and associated SLIN) bid on or a minimum of 100 applications per month per field bid on.

D. Searching Methodology Plan

The USPTO will assess the Offeror's ability to perform a high quality search using various search tools, such as databases. The evaluation will consider the planned search techniques, knowledge and experience searching on various databases and access to the types of databases anticipated to be used.

E. Key Personnel Resume

The USPTO will assess the Key Personnel's ability to perform the role of Program Manager effectively. This evaluation will consider the relevance of the key personnel's past experience and the quality of the past experience and performance.

F. Past Performance

The USPTO will utilize past performance information submitted in response to the Solicitation. Additionally, in the conduct of its evaluation of offeror's proposal, the USPTO may use a variety of information sources in addition to information provided by the offeror. These sources may include, but are not limited to, technical reports, commercial literature, and contact with present or past Government or commercial customers of the offeror. The USPTO may use past performance information obtained from sources other than those identified by the offeror. Additionally, past performance information obtained will be used to determine offeror's responsibility. The USPTO will examine the following elements in evaluating the offeror's Past Performance:

- Relevance of the offerors past experience; and,
- Quality of the offerors past experience and performance.

G. Small Business Subcontracting Plan or Teaming Plan.

G.1 Small Business Subcontracting Plan (applies only to large businesses proposing as the prime contractor).

The offeror's Small Business Subcontracting Plan will be evaluated on the offeror's stated proposed use of veteran-owned small businesses (including service disabled veteran-owned small businesses), HUBZone small business concerns, women-owned small business concerns, small disadvantaged businesses, and small businesses as set forth in FAR Subpart 19.7, and on the creativity and resourcefulness of its teaming arrangement(s) with these concerns. The offeror will be evaluated on the appropriateness of its subcontractor(s) plan and on its ability to effectively manage and control the use of subcontractor(s). The offeror is encouraged to propose use of these concerns to the maximum extent possible. The offeror will be evaluated on its projected percentage of use of these concerns and the proposed subcontractor's socio-economic status in relationship to the PTO's preferred order of subcontractor participation as listed below:

- 1) Veteran-owned small businesses (including service disabled veteran-owned small businesses)
- 2) HUBZone small business concerns
- 3) Women-owned small business concerns
- 4) Small disadvantaged businesses
- 5) Small businesses

The offeror will be evaluated on its past performance in achieving its small business contracting goals.

G.2. Teaming Plan (applies only to small businesses proposing as the prime contractor, and intending to subcontract a portion of the requirement).

The offeror's Teaming Plan will be evaluated on the offeror's use of veteran-owned small businesses (including service disabled veteran-owned small businesses), HUBZone small business concerns, women-owned small business concerns, small disadvantaged businesses, and small businesses as set forth in FAR Subpart 19.7, large businesses, on the creativity and resourcefulness of its teaming arrangement(s) with these concerns, and the proposed subcontractor's socio-economic status in relationship to the PTO's preferred order of subcontractor participation as listed below:

- 1) Veteran-owned small businesses (including service disabled veteran-owned small businesses)
- 2) HUBZone small business concerns
- 3) Women-owned small business concerns
- 4) Small disadvantaged businesses
- 5) Small businesses

H. Price Proposal

The USPTO will evaluate the Offeror's proposal and pricing of all CLIN items listed in Section B. The price proposal will be reviewed and analyzed in depth, but will not be scored. The USPTO will evaluate the Offeror's proposal and pricing utilizing the maximum quantities of all CLIN items for the base period and all option periods listed in Section B.3 through Section B.5.

I. Representations and Certifications

Representations and Certifications will be evaluated but not scored.

J. Relative Importance of Evaluation Factors

The Non-Price Evaluation Factors' importance is in the following descending order with the most important factor listed first: Factor A Quality Assurance Plan, Factor D Searching Methodology Plan, Factor B Management Plan, Factor E Key Personnel Resume, Factor F Past Performance, Factor G Small Business Subcontracting Plan or Teaming Plan. When combined, the Non-Price Factors are significantly more important than Factor H Price Proposal. Price Proposals will be evaluated but not scored. Factor C, Workload Capacity Plan, is a pass/fail evaluation factor. Offerors who do not pass this factor will not be eligible for award.

M.8 MAKE "BEST VALUE" DETERMINATION AND AWARD CONTRACT

The USPTO will make a best value determination across all Offerors' proposals. In making this determination, the USPTO is more concerned with obtaining superior quality, search methodology, management and past performance than with making an award at the lowest overall price to the USPTO. However, the USPTO will not award a contract at a significantly higher overall price to achieve slightly superior services and past performance. Additionally, USPTO reserves the right to award a contract at a higher overall price for significantly superior quality, search methodology, management and past performance. As proposals become more equal in non-price factors, the evaluated price increases in relative importance.